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COMMITTEE MEETING
STATE OF CALIFORNIA
INTEGRATED WASTE MANAGEMENT BOARD
PERMITTING AND ENFORCEMENT COMMITTEE

JOE SERNA, JR., CALEPA BUILDING
1001 I STREET
2ND FLOOR
COASTAL HEARING ROOM
SACRAMENTO, CALIFORNIA

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Margaret Clark, Mayor Pro Tem, City of Rosemead

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Teresa Dodge, Sanitation District, LA County

Sean Edgar, CRRC

Nancy Ewert, Kern County

Donald Gambelin, Norcal Waste Systems, Inc.

Jim Hemminger, Rural Counties ESJPA

Jeff Lamoure, LEA

Mike Mohajer, LA County Integrated Waste Management Task
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Cyrus Sanai, Jeffer, Mangles, Butler, Marmaro

Scott Smithline, Californians Against Waste

Larry Sweetser, Rural Counties ESJPA

Chuck White, Waste Management

Diana Wilson, LEA, Kern County

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1 PROCEEDINGS

2 CHAIRPERSON PAPARIAN: Good afternoon,
3 everybody. This is the meeting of the Permitting and
4 Enforcement Committee. Just as a reminder as we get
5 started, if you have a cell phone or pager if you could
6 turn it off or turn it to the vibrate mode, it would help
7 us in terms of keeping from being interrupted during the
8 meeting.

9 There are speaker slips in the back of the room.
10 I know some people have already found those, and they've
11 found their way to the front. If you want to speak on any
12 item, please fill out a speaker slip and hand it to
13 Ms. Kumpulainen in the front of the room.

14 We should start by establishing a quorum.
15 Secretary, could you call the roll.

16 SECRETARY KUMPULAINIEN: Jones?

17 COMMITTEE MEMBER JONES: Here.

18 SECRETARY KUMPULAINIEN: Peace?

19 COMMITTEE MEMBER PEACE: Here.

20 SECRETARY KUMPULAINIEN: Paparian?

21 CHAIRPERSON PAPARIAN: Here.

22 Any ex partes, members?

23 Mr. Jones.

24 COMMITTEE MEMBER JONES: I'm up to date.

25 CHAIRPERSON PAPARIAN: Ms. Peace?

1 COMMITTEE MEMBER PEACE: I'm up to date.

2 CHAIRPERSON PAPARIAN: Mr. Levenson, do you have
3 a Deputy Director's report?

4 DEPUTY DIRECTOR LEVENSON: Thank you, Mr.
5 Chairman. Good afternoon, Board members. I'm Howard
6 Levenson with the Permitting and Enforcement Division.

7 If we could have that first Powerpoint, please.

8 I'd like to give you an update of several items.
9 First of all an update on the Crippen cleanup, which we
10 have some pictures of. I'll just start talking. The
11 Crippen site cleanup project continues to proceed
12 successfully. We've removed about 80,000 tons of material
13 from the site. There's another 20- to 25,000 tons
14 remaining.

15 --o0o--

16 DEPUTY DIRECTOR LEVENSON: We'll show you some
17 pictures. But pile three is completely removed. There's
18 the original configuration after the stabilization from
19 the fire.

20 CHAIRPERSON PAPARIAN: Hold on just one second.
21 We're warming up our monitors here.

22 DEPUTY DIRECTOR LEVENSON: Okay.

23 CHAIRPERSON PAPARIAN: Go ahead.

24 DEPUTY DIRECTOR LEVENSON: Pile three has been
25 removed. And pile two is 90-plus percent removed. And

1 pile one is about 50 percent removed. The density of pile
2 one was a little higher than we expected. That's why we
3 have still another 20 to 25,000 tons to go. But even with
4 that additional tonnage, we still anticipate completing
5 the project sometime in the September 19th to 25th time
6 frame, which is within our original projections.

7 I think it's also very important to note because
8 of the extent of the removal to date, the local fire
9 authority determined last week the remaining risk of
10 catastrophic fire control is -- that would require the use
11 of our contingency money for emergency fire control is
12 negligible. So as approved by the Board, we'll be tapping
13 into that contingency funding to fund the removal of the
14 additional 20- 25,000 tons, and we anticipate that the
15 total cost to the Board will be about \$2.1 million. This
16 has obviously been a real challenging and complex project,
17 but all the involved agencies and parties have had a real
18 good collaborative working relationship. Our contractors,
19 Qwen and BAS are doing a great job, and Wes Mindermann and
20 See Chuan Lee have been writing and keeping everything
21 going well on the project, and they deserve the lion's
22 share of credit.

23 --o0o--

24 DEPUTY DIRECTOR LEVENSON: There's one other
25 picture on that just showing some further removal after

1 the second picture, and that's it for the first
2 Powerpoint.

3 Continuing along the cleanup theme, last month we
4 were pleased to report full confirmation of the
5 Bettencourt C&D site had been cleaned up by the property
6 owner without having to expend Board funds. And this
7 month I want to report the same success in the Ralco site
8 which has confirmed our strategy of pressing forward with
9 LEA enforcement actions backed up by the credible threat
10 of Board-managed cleanup projects with cost recovery.
11 We've -- the LEA had issued a Notice of Order to clean the
12 Ralco site up, and as of last Wednesday reported that the
13 property owner had completed cleanup activities as
14 required. The LEA is going to be sending us written
15 confirmation along with photos to confirm appropriate
16 disposal of all the material taken away.

17 As with the Bettencourt site, Brad Williams was
18 the lead staff person on that on the Ralco case and did
19 another case job. And here the LEA deserves credit for
20 acting promptly on our request to ramp up enforcement and
21 oversight at that site. So those are two cleanup
22 successes.

23 I want to report kind of broadening the horizons
24 to the world we live in now. In late August Wes
25 Mindermann attended a radiological exercise that was put

1 on by US EPA in San Francisco that explored the issues
2 that might accompany an event involving a radiological
3 dispersion device, such as a dirty bomb, and what various
4 agency responses would be. The scenario focused on an
5 event happening in the San Francisco financial district
6 and was broken up into several different response periods;
7 an immediate response, a transition, and a long-term
8 recovery phase. There were over 20 agencies represented,
9 and OES was coordinating state emergency response
10 involvement.

11 If there was such an event, our involvement in it
12 would most likely be as a resource for planning an
13 operation site of debris management in the latter phases,
14 in the transition and long-term recovery periods, as
15 opposed to immediate response. Our statutory authority,
16 of course, is limited to non-hazardous solid waste and not
17 radioactive waste. We'll be available to assist agencies
18 in debris management from the incident, if needed, and in
19 accordance with our own emergency response plan.

20 A few more items. On August 27th we met with LEA
21 leaders -- staff and LEA leaders met to continue
22 discussing issues that have been raised at the 2002 LEA
23 partnership and in a variety of venues since then. Some
24 of the key topics included the need for CIWMB guidance on
25 statewide CEQA responsibilities; Board member office

1 involvement in LEA venues, such as round tables and
2 enforcement advisory counsel and other venues; continued
3 improvement in and coordination between LEAs and CIWMB
4 staff; and how to better measure compliance and devote
5 more resources toward public health and environmental
6 problems. This was a first session, and we have a lot
7 more work ahead of us. It was very productive. Some of
8 them we'll be discussing with you individually, such as
9 your involvement at LEA venues. And others we'll be doing
10 more work on and bringing back to you as Committee or
11 Board policy items later on.

12 An item of some significance was the publication
13 of the DTSC burn dump protocols. As you know, we've been
14 participating for some time in a work group with Toxics
15 along with the state and regional water boards and LEAs to
16 facilitate agency coordination on burn dumps. These are
17 old closed solid waste sites that operated by open
18 burning, which was the accepted practice for many years
19 for waste disposal. Our staff has identified and
20 prioritized over 500 burn dumps statewide. We know there
21 are many, many more. And the solid waste cleanup program
22 has been involved in 26 burn dump cleanups today. Cleanup
23 of burn dump sites with sensitive land use may also be
24 regulated by Toxics as hazardous substance release sites.

25 Last year AB 709 was passed, and it was effective

1 January of 2003. That clarified the roles of agencies
2 regarding burn dumps and provided a process for
3 determining who's involved at what stage. It mandated
4 that the Waste Board entered into an agreement to
5 reimburse Toxics for its activities in that process and
6 also mandated that Toxics provide the Board and LEAs with
7 protocols for site investigation and characterization.
8 That's been an ongoing effort that Scott Walker and others
9 have been involved in. We met our requirement by awarding
10 an inter-agency agreement to Toxics last year for the
11 amount of 50,000. We haven't had to exercise much under
12 that agreement to date. And very recently Toxics met its
13 mandate by completing the protocols, which will be posted
14 on our website in a short while. So that's a significant
15 event in the burn dump process, and it represents a lot of
16 work, and I know there was a lot of controversy on that in
17 the development of AB 709.

18 A few upcoming events to alert you to. We will
19 be having a couple of workshops, one on September 22nd,
20 and one on October 30th regarding the applicability of the
21 various new requirements in the C&D inert processing
22 regulations to other regulatory packages. And then we'll
23 be compiling the results from those workshops and coming
24 back to the Committee, we hope, in November or, at the
25 latest, December.

1 Also under the osmosis of the Committee on
2 October 28th, we'll be having a field trip and discussion
3 on the Yolo County bioreactor landfill project. We're
4 coordinating this in consultation with State Water
5 Resources Control Board, and it will consist of a field
6 trip to the Yolo County Central landfill beginning at
7 10:00 to observe the bio reactor demo project, and then
8 followed up by a workshop in the early afternoon at a
9 county site for stakeholders and other interested parties
10 to discuss the relative merits and concerns about this
11 technology.

12 Also in October we're planning a morning
13 educational workshop on the -- I believe it's the 8th, but
14 it's the morning of the P&E Committee about post-closure
15 maintenance financial issues. This will be something that
16 the Board will have to grapple with in years to come, both
17 in terms of 30 year post-closure maintenance period and
18 its relationship to financial demonstration requirements.
19 So this will be an educational workshop to get us all up
20 to speed, and it will raise some issues that may require
21 further policy work.

22 And lastly -- a lot of items here. I just
23 wanted to mention that we've been requested by the
24 Los Angeles Regional Water Quality Control Board to join
25 them at their hearing on Thursday -- this Thursday on

1 Sunshine Canyon and provide information on the Board's
2 action when we concurred in the issuance of the Sunshine
3 Canyon permit. So at this point Mark De Bie and Michael
4 Bledsoe will be going down on Thursday to be available to
5 answer questions from the Water Board.

6 That concludes my Deputy Director's report. Be
7 happy to answer any questions.

8 CHAIRPERSON PAPARIAN: Any questions?

9 Mr. Jones.

10 COMMITTEE MEMBER JONES: Thanks. I have a few.

11 On the Crippen site, the Board's share is about
12 two-one. Did US EPA come up with their one-three?

13 DEPUTY DIRECTOR LEVENSON: As far as I know. We
14 can verify that.

15 COMMITTEE MEMBER JONES: So actually this could
16 have cost the Board 3.1 million. So that's good news.

17 The Ralco site, I appreciate that. The only
18 thing is when we say that the LEA jumped all over it once
19 the Board told them to do a Notice of Order, I think we
20 need to be careful to understand that that site got in
21 that condition because of an -- I mean, obviously somebody
22 dropped the ball. So I think we need to look at how that
23 ever happened. And I know there's been changes in LEAs,
24 but when I saw it, it was pretty bad. Pretty bad case of
25 somebody keeping their eyes closed. So I'm glad to see

1 it's being cleaned up.

2 And then my last question is on the DTSC protocol
3 on burn dumps, I think everybody's pretty clear there was
4 a pretty good effort to go after our 2136 money on this
5 cleanup stuff. Does that protocol exclude the Board from
6 its joint decision-making on whether or not this stuff
7 needs to go under DTSC's management?

8 DEPUTY DIRECTOR LEVENSON: I'm going to ask Scott
9 to respond in detail to that.

10 MR. WALKER: No, it doesn't infringe on the
11 Board's authority to decide whether or not they want to
12 get involved directly on a cleanup on a site. It deals
13 pretty specifically with a lot of the technical aspects of
14 investigation and characterization. And I think from our
15 staff, we looked at it. We thought, can we live with
16 this? We could. We thought it was reasonable. And I
17 think that the Department, you know, as it was written in
18 the format they wrote it in was very flexible and it did,
19 you know, respect the Board's authority and the Board's
20 decision-making capacity and didn't really preempt that,
21 per se, but actually turned out to be something that we
22 think is -- I think is going to be workable. And I think
23 we've gotten quite a bit more cooperation from the
24 Department on these sites, even though more recently as a
25 result of this protocol.

1 COMMITTEE MEMBER JONES: Is there a mechanism
2 that if there is a dispute, how does that dispute go? I
3 mean, I look at Folsom prison, and I see an effort that
4 took some 12 years, and they still didn't get it right.
5 And then we came in and cleaned it up with our dollars.
6 I'd hate to see our 2136 money get frittered away with
7 investigations as opposed to cleanups. What's the
8 mechanism in that policy that would allow intervention?

9 MR. WALKER: I think the Board -- if the Board
10 decides that a particular burn dump case that clearly this
11 was not something they felt was appropriate or that the
12 level of investigation that, say, the Department would
13 impose or require or, for that matter, request funding or
14 a part of a matching grant application would be weighing
15 heavily towards costs that the Board didn't like and
16 wasn't comfortable with, I think that the Board would have
17 the full authority on a 2136 project to not approve it.
18 It would have to go before the Board. The Board would
19 have to consider. The Board would have to be comfortable
20 with the project, the costs, and the Board's role. So
21 that wouldn't be preempted as a result of this burn dump
22 protocol.

23 COMMITTEE MEMBER JONES: Okay. All right.

24 CHAIRPERSON PAPARIAN: Okay. Our first item is
25 going to be related to the landfill compliance study and

1 update on its status. If my fellow Board members agree,
2 this item will be for the Committee only this month.
3 However, over the next six months or so there's going to
4 be some actual analysis from the study being presented,
5 and I think it might be appropriate, depending on what's
6 coming forward, for some of that to go before the full
7 Board. And so I'll work with the staff and try to
8 determine which might make more sense to go to the full
9 Board. It might even be all of it will go to the full
10 Board. I don't know -- or perhaps even none of it. But I
11 think we ought to work together on making sure we manage
12 the contractor's time and our time well in terms of
13 presenting the information.

14 I understand that -- well, let me think back
15 here. I think it was back in May or June of 2000 that
16 this study was first funded and we contracted for it.
17 Three years later we're still looking for the results. I
18 understand that the study's become kind of a management
19 challenge for our staff. And our staff and Ms. Garcia in
20 particular have dedicated a lot of time and effort to
21 trying to get this study completed and get it done and get
22 it done well.

23 I see by the outline we've seen -- I know you're
24 going to go into it in a minute -- that we're anticipating
25 the report being completed by April of 2004. I hope it

1 gets done by then. It's something that's going to be
2 important for us to look at. And if we continue to have
3 any slippages or anything, we need to be made aware of
4 that. And it may be up to the Board to decide whether any
5 other appropriate action might be needed in terms of the
6 contractor if they're unable to fulfill the terms of the
7 contract.

8 So with that, I guess I'll turn it over to you,
9 Ms. Packard.

10 MS. PACKARD: Thank you. Rubia Packard with the
11 Policy and Analysis Office. I'm just going to introduce
12 Bobbie, who's going to go through the presentation that we
13 have. But we thought, as you say, Mr. Paparian, we're
14 getting toward the end of this contract. It has been a
15 long time. Some of the tasks have taken a lot longer than
16 we expected for a variety of reasons, mostly because it is
17 extremely complex and a lot of information has been
18 collected and needed to be analyzed to provide the reports
19 that we hope to get through the rest of the life of this
20 contract. So we thought it would be a good time to update
21 you on it.

22 And we also hope that the contractor will
23 complete the reports as required over the next several
24 months. And we appreciate your comments, and we'll pass
25 those on to the contractor hopefully to encourage them

1 even more to allocate some resources and finish up the
2 contract for us.

3 So with that, Bobbie is going to go through the
4 presentation we have to update you on where we are with
5 all the tasks in the study.

6 (Thereupon an overhead presentation was
7 presented as follows.)

8 MS. GARCIA: Good morning. This is Bobbie
9 Garcia. Good afternoon. To promote environmentally safe
10 land disposal, the Board initiated a unique two-phase
11 cross media study of the state's 224 MSW landfills and
12 contractors with GeoSyntec Consultants. Am I speaking too
13 loud?

14 Phase 1 consists of a cross media inventory and
15 assessment of MSW landfill environmental performance, and
16 it covers the period of 1998 through 2001.

17 Phase 2 consists of an assessment of current
18 regulatory effectiveness in protecting the environment for
19 both the short and the long terms. The landfill study is
20 a major effort, the first of its kind in California, that
21 takes a comprehensive look at MSW landfills across the
22 environmental media of air, water, and gas. This means
23 working with the regional water quality control boards,
24 the air districts, air quality management districts, et
25 cetera, and LEAs in gathering the necessary information.

1 To facilitate the effort from the initial
2 drafting of the scope to work to reviewing all work
3 products for quality and completeness, a landfill study
4 team was created consisting of staff from the State Water
5 Resources Control Board, the Air Resources Board, and the
6 California Integrated Waste Management Board. All
7 together the study consists of a total of eight tasks.
8 Phase 1 has three tasks. Phase 2 has five tasks.

9 --o0o--

10 MS. GARCIA: The Phase 1, the Task 1 is a
11 checklist of pertinent environmental regulatory
12 requirements, was completed and posted on the Board's
13 website on April 11th, 2002. This is a comprehensive
14 listing of federal and state regulations. And at the
15 local level, it's a summary of air district regulations,
16 city and county regulations and ordinances, and
17 conditional use permits.

18 Task 2 is the cross media inventory of the 224
19 MSW landfills. Those are landfills that have accepted
20 waste since 1993. That was the criteria for establishing
21 the 224. That list was completed and posted on the
22 Board's website on April 9th, 2003. This database is
23 tremendous in size. It's more than 25 megabytes and
24 provides not only basic information such as owner,
25 operator, size and age, but it includes environmental

1 protection systems in place at the landfills, such as
2 liner type, if they have the presence of a gas selection
3 system or not, and the cover type that they may have. It
4 also consists of compliance with environmental
5 requirements including the Regional Water Quality Control
6 Board monitoring status. Are they in detection
7 monitoring? Are they in corrective action? It also
8 provides LEA inspection information and enforcement
9 actions that have been taken regarding gas and surface
10 water standards. And third, it provides air district
11 equipment and emission standards if there have been
12 violations or showing any problems in those areas.

13 The accuracy of Task 2, the inventory, is very
14 important. And it led to the creation of a very extensive
15 review and comment period where owner, operators, and
16 regulators were asked to review and comment on the
17 accuracy of the information.

18 --o0o--

19 MS. GARCIA: Task 3, which is also the last part
20 of Phase 1, is producing a Phase 1 report that summarizes
21 the results of the screening analysis that was performed
22 on the cross media inventory of the 224 landfills. And
23 that was done to better understand environmental
24 performance. This is a major report that will present
25 information on environmental performance at MSW landfills

1 as well as a snapshot of their design and operational
2 characteristics. We received a second draft report from
3 the contractor and submitted our comments, and we're
4 waiting for the final draft.

5 And just to backtrack on design and operational
6 characteristics in looking at the reports, you'll be able
7 to look under urban landfills and be able to see how many
8 urban landfills are fully lined with Subtitle D liner, how
9 many are unlined, how many are partially unlined. We'll
10 have all of that data in the report. It's got quite a bit
11 of information to be able to say a lot about urban rule
12 and suburban landfills. But you'll be able to see how
13 those landfills are performing with a chart that we'll
14 have that show how many are in corrective action or how
15 many are -- have any enforcement actions that have been
16 taken by an LEA. It's a lot of detail, a lot of
17 information in there that we're trying to pull together,
18 and hopefully we'll have it done in September.

19 The Task 4 is a more in-depth look at the 40 of
20 the 224 MSW landfills, plus it includes another 13
21 additional MSW landfills that closed prior to 1993 to
22 better understand why a landfill is not in compliance and
23 if it is related to current regulation. This is a major
24 task that requires the contractor to contact regulators
25 and owners/operators and the gathering of the necessary

1 information. The information will be added to the
2 existing task to inventory. So it won't be a new
3 database. It will be an additional information to the
4 existing database.

5 --o0o--

6 MS. GARCIA: The Task 5 will be a Phase 2 report
7 that summarizes the results of the more in-depth look at
8 MSW landfills and the role current regulations play with
9 regard to compliance to better understand regulatory
10 effectiveness. This is another major report that will
11 present information on the effectiveness of Board, Water
12 Board, and air district regulations in achieving
13 environmental compliance of landfills. The contractor
14 will draft this report upon completion of Task 4.

15 Task 6 is the evaluation of selected states and
16 countries MSW landfills regulations and identification of
17 those that could approve California's program if applied.
18 The contractors finalized the list of eight states and
19 five countries whose regulations will all be evaluated,
20 collected the regulations, and begun an initial review.

21 --o0o--

22 MS. GARCIA: Another task in Phase 2 is a Task 7
23 which is the identification of emerging technologies that
24 could possibly improve the operation of California's MSW
25 landfills, if applied. We received a draft report from

1 the contractor, submitted our comments, and are waiting
2 for the final draft.

3 Task 8 is the final report that summarizes the
4 results of the study and identifies indicators that could
5 be used to track ongoing environmental performance. The
6 contractor has not begun work on this report. The
7 contract now expires on May 15th, 2004.

8 --oOo--

9 MS. GARCIA: And our last slide shows the
10 proposed schedule for presenting the remaining tasks to
11 the Board. So in October 2003, we will be providing Task
12 3, Phase 1 report to you.

13 On the November Board meeting, our P&E Committee
14 meeting will be the Task 4 which is the more in-depth
15 look. It's the data information that will be gathered by
16 GeoSyntec. November also will be Task 7, which is also
17 the report on emerging technologies that could be used in
18 California. And in December will be Task 6, which is
19 looking at other states' and country's MSW regulations.
20 February is the Task 5 Phase 2 report. And then April
21 2004 is the final report that would come to you.

22 I want to thank you today for letting me come and
23 go through all of this because it's been a while. And
24 also to say this concludes our comments, and we would be
25 happy to answer any questions or comments you may have.

1 CHAIRPERSON PAPARIAN: Any questions, members?

2 Well, thank you very much. As I said before, I
3 know this has been quite a challenging effort to move this
4 along. And just looking at this -- and we can talk about
5 this further. But looking at this list here, I think, you
6 know, it's quite likely that the full Board would be
7 interested in certainly the final report, possibly some of
8 the other states' and countries' items and maybe some of
9 the others as well.

10 MS. PACKARD: We'll certainly work with you on
11 that.

12 CHAIRPERSON PAPARIAN: And then one issue I
13 brought up two or three years ago now on this report. The
14 consultant on this is evaluating some landfills they
15 either participated in the design of or otherwise had some
16 contractual relationship with. Have any issues come up
17 with regards to conflict of interest with them in any of
18 the landfills, and have we been able to address those if
19 they have?

20 MS. GARCIA: I think this is one of the reasons
21 Task 2 took a longer time as we had a very extensive
22 review process so owners, operators, and regulators would
23 have their chance to look at all the 224 landfills and
24 comment on them. So that kept everything out there. If
25 there was something that GeoSyntec wasn't going to report

1 on, that would be included anyway. So I think that covers
2 that concern.

3 And on the Task 4 on the identification of the 40
4 landfills, the landfill study team played a large role in
5 identifying which landfills would be part of that.

6 CHAIRPERSON PAPARIAN: Okay. Mr. Jones.

7 COMMITTEE MEMBER JONES: I think, too, there
8 was -- I think one of the things that became pretty clear
9 to me while you were going through this was -- and we had
10 discussions about this that it could be semantics or
11 whatever -- was the amount of material that you had to
12 rely on other regulatory agencies to provide that either
13 wasn't available or somebody had a file and was working on
14 it for the benefit of the doubt or other things because
15 one -- I think one of the important parts of this study
16 that it's illustrated is that, you know, each regulatory
17 agency may view the issues around a landfill very
18 differently, depending upon where they are, what priority
19 they are within the region.

20 And I think that became evident in what took a
21 long time in Phase 2 or Task 2 with getting some of that
22 information without pointing the finger or blaming
23 anybody. It's pretty clear when it takes a long, long
24 time to get information, it could have been on somebody's
25 desk or it could have -- maybe didn't even exist. So I

1 think that is an illustration that we shouldn't -- even
2 though we want to be nice to everybody, I don't think it
3 should be lost. Because I think the importance of
4 maintaining those records or how people deal with it is
5 part of why we evaluate landfills.

6 CHAIRPERSON PAPARIAN: Thank you.

7 Anything else on this item? Thank you very much.

8 DEPUTY DIRECTOR LEVENSON: Mr. Chair, the second
9 item, Item 23 or Item C, on your P&E agenda is a
10 discussion and request for direction on landfill
11 operations training certification program to follow up to
12 the issue of studying landfill compliance in Item 1. And
13 Darryl Petker will be presenting that item.

14 (Thereupon an overhead presentation was
15 presented as follows.)

16 MR. PETKER: Thank you. As Howard said, I'm
17 Darryl Petker with the Office of Organizational
18 Effectiveness. And I'm here to bring back to you
19 information that you requested in the June meeting. I did
20 a presentation on landfill operation training and
21 certification, and the Board asked that I come back with
22 some options for you. And this is in response to that.

23 --o0o--

24 MR. PETKER: The issue we've kind of worked down
25 to this, is should on-site landfill managers and state and

1 local inspectors have required training and certification
2 in current landfill management techniques? That's a
3 summation of a lot of discussions and meetings that we've
4 had currently.

5 --o0o--

6 MR. PETKER: A little bit of background. Most of
7 you have seen this, but I just wanted to include it also.
8 A little bit of background on this is in October of '99
9 the Board requested that staff go out and work a pilot
10 project with SWANA. A year later in October of '99, the
11 agreement was signed and initiated, and it ended up being
12 a four-year pilot project with SWANA to do some training
13 with an established system they already had and move it up
14 and include California-specific information. And that has
15 been done, and I'll talk a little bit more about the
16 results of that as we go along. And then on March of 2003
17 and June of this year, we've had Board information items,
18 one to the Committee only and then the one in June that I
19 just discussed.

20 Up to now, the results. We have four MOLO
21 certification classes. Those are the official ones.
22 There were several prior to that that were initiated by
23 Don Dier, who has also worked on that project. So the
24 history -- there's a lot of history here that Don can help
25 fill in if you do have questions as we go along.

1 There's also been numerous CIWMB support classes.
2 Those were done by the LEA training section under Mindy
3 Fox and has offered a lot of support with this, as well as
4 programs that are directly related to this function.

5 --o0o--

6 MR. PETKER: The goals of the pilot project were
7 to improve landfill operations and safety; train,
8 education, update landfill managers, LEAs, and CIWMB
9 inspection staff; to collect information and data for
10 evaluation and possibly the future action that we're
11 looking at today; and then consider certification
12 requirements.

13 --o0o--

14 MR. PETKER: To give you an idea of some of the
15 stuff that we've done other than the training, we've had
16 discussion with the LEAs at the CIWMB conferences both at
17 Grandlibakin and Squaw Creek, numerous SWANA activities,
18 different meetings, waste con, western symposium. We've
19 had discussions with both CCDEH, numerous LEAs, and
20 Regional Counsel of Rural Counties.

21 And also the CIWMB has offered many training
22 classes for continuing education units, of which three of
23 those classes are directly at this pilot project. Now
24 there's another one up and coming which will be a
25 combination of tire -- pointed towards the tire education

1 as well as MOLO certification to get operators in rural
2 counties and LEAs in rural counties and our inspection
3 staff in those counties up to date on this information
4 also and to bring them on board.

5 --o0o--

6 MR. PETKER: I thought it might be good to give
7 you a little bit about a MOLO course, just the highlights.
8 It's a basic course on landfill operations and management.
9 What it tries to do is tie the whole picture together from
10 siting, design, operations, and closure, and how all of
11 those things interlink. The emphasis on the course is on
12 operations. How do you run it so it fits with the design?
13 How do you run it so it can be closed and it's safe, and
14 to maximize air space? That's the concept, I think,
15 behind MOLO training.

16 It's made up basically of 15 major topics
17 covering those things I mentioned. Included in that
18 training is a field trip where the operators go out to the
19 site, look at some types of activities, including some
20 inspection things that are done at the sites, how do you
21 verify landfill gas, water quality issues, anything
22 peculiar to that landfill they try and train. What's that
23 landfill doing? What operations have they found that work
24 better for them than others? And what they've learned
25 over time.

1 At the end of the four-day course, there's two
2 tests given. One is a national SWANA exam, which is
3 offered in most states. And then we've added on to that a
4 30 question exam which is California-specific only.
5 That's so we can tie into the pilot project and make sure
6 those that are trained have answered or understand the
7 California-specific questions.

8 Let me back up just a little bit. During the
9 course, the manual, which is probably three- to
10 four-inches thick now, have -- we've worked with SWANA
11 both Don and I and several other people at the Board have
12 included throughout almost every one of those chapters
13 information relating to California-specific information,
14 whether it be load checking, hazardous waste, tire issues,
15 the specific things that California requires that other
16 states don't. But those are included in those. And I
17 have a copy of that manual if one of you would like to see
18 it or all of you would like to see it. I can show you
19 where we've included all those things.

20 One of the concerns that have come is the cost of
21 this course. Currently -- and this number is just a
22 little bit off -- but currently, it's about 800 and a
23 little over \$50 to get a course and register to become a
24 SWANA member. If you register to become a SWANA member,
25 it's about 100 bucks and you get the course cheaper.

1 Otherwise, it's a little more expensive for non-members.
2 So for our staff, we usually sign them up for SWANA, get
3 the course a little cheaper. But it runs about \$850, plus
4 whatever per diem there is. It's pretty standard across
5 the state, and it has been pretty stable like that.

6 A little difference is incoming up in the next
7 training class we're trying to lower that cost a little
8 bit for the rural counties to help them because we know
9 they're having some financial difficulties also.

10 --o0o--

11 MR. PETKER: Recertification as part of the
12 project and in cooperation with SWANA. What we do also is
13 we require -- or we go along with them requiring 30
14 continuing education units to maintain the certification
15 they got from that first basic class. That's over a
16 period of three years. Mindy Fox' group has offered more
17 than 60 of those continuing education units to the LEAs,
18 Board staff and operators at no cost to support that
19 recertification. We've tried to limit using the resources
20 here. We're limiting the cost and burden on our staff,
21 some of the operators and LEAs for that.

22 --o0o--

23 MR. PETKER: You've seen this slide before. I
24 just want to bring it back to you. Let me get caught up
25 here. This is information displayed for 164 landfills

1 that were active and permitted between the years of '96
2 and December of '02. There are fewer landfills now, but
3 this information is current as of last December. The blue
4 lines are the number of MOLO-certified operators within
5 the state of California. The red dots and red line, the
6 number of violations and areas of concern for those same
7 164 landfills. While it isn't a direct correlation, I
8 think it shows the importance of how the education and the
9 training reflects on their intent to do a good job and
10 lower those numbers.

11 --o0o--

12 MR. PETKER: There is a little of the data we've
13 collected from the last four training classes. Two are in
14 Whittier, one is in Bakersfield, and one in Sacramento.
15 What I've got here is the MOLO national test, which is the
16 top three lines on the top half of the graph, and the
17 percentages of those that passed nationally taking the
18 national test. And then on the bottom half of the top, I
19 have highlighted the percentages of those that took the
20 California-specific that passed. And what you can see is
21 a pretty even correlation. So we're trying to stay within
22 that group. And those that passed tend to do pretty well.

23 Now what we're finding is some pass the national;
24 some don't pass the California. Some pass the California;
25 some don't pass the national. But overall, we're doing

1 pretty good.

2 Below that you'll see the numbers. I've broken
3 it down the best I could find of who's taking these
4 courses, whether they be LEA, CIWMB, or operators,
5 consultants. Consultant could be just that, a consultant.
6 And I put them in the same category of somebody who is
7 managing the landfill for this purpose. As you see, it's
8 increasing in going along, so there is an interest and
9 this is what we've done so far.

10 The next training class in the series starts
11 tomorrow in Fresno, just so you know.

12 --o0o--

13 MR. PETKER: The last slide is options for
14 consideration. So in answer to your request in June to
15 bring you back some options, we've come up with these four
16 options. First one, direct staff to develop regulations
17 beginning with an informal rule making process to require
18 certification for on-site landfill managers responsible
19 for day-to-day operations and for state and local landfill
20 inspectors.

21 Number two, direct staff to continue landfill
22 operations training certification pilot program for an
23 additional two years.

24 Number three, direct staff to drop the program
25 and not pursue regulations.

1 And then four, provide other direction to staff.

2 With that, Howard if I -- I think I've covered
3 everything.

4 CHAIRPERSON PAPARIAN: We do have one speaker.

5 MR. PETKER: I'm sorry. I didn't give you our
6 recommendation.

7 We picked number one. That's why we put it
8 there. But it's develop staff to develop regulations. If
9 I might just add a little bit here, is that while I find
10 everybody's in favor of the idea of that, not everybody is
11 in favor of how it's going to be implemented. We know and
12 we understand that sensitivity, that the informal process
13 will be critical to coming forth with this. So we do plan
14 on building consensus. We do plan on having a lot of
15 informal scoping sessions and some workshops prior to
16 getting even the first set of the regulations out. So
17 everybody can get their input in that. Thank you.

18 CHAIRPERSON PAPARIAN: Any quick questions before
19 we hear our speaker?

20 John Abernethy, County of Sacramento and SWANA.

21 MR. ABERNETHY: Thank you, Mr. Chairman and
22 members of the Board. As a past international president
23 of SWANA and a member of the committee who has worked
24 through the development of the MOLO program, I'd just like
25 to present our support for the staff's recommendation.

1 SWANA, as an organization, believes in
2 professional development of our industry and believes the
3 manager of landfill operations training course is vital to
4 the success of environmentally-safe and well-operated
5 landfills in our state. We believe that the program
6 should be pursued on a statewide basis. It could be a
7 trend certificated and at the forefront for the
8 development of these kind of programs. And again, the
9 cost may seem excessive to some in these days, but we
10 believe it's very important that operators at all levels
11 have the training. And that includes both the operator of
12 the landfill site, the manager, as many staff as we can.
13 And I know in Sacramento County, we had over 10 employees
14 attend this course. And also the local enforcement folks.
15 We believe it's vitally important that everybody has the
16 same basis of understanding, that we have a common
17 opportunity to discuss and understand the regulations.

18 We believe the way the program is put together as
19 kind of an interactive -- attending the landfill, having
20 California Integrated Waste Management Board staff
21 members, operators, and enforcement people together
22 enhances the program and eliminates some of the questions
23 we have when there's enforcement activities.

24 So I'm basically here again to support staff
25 recommendation, offer SWANA's continued support. And we

1 would be most willing and able to work with you and hope
2 to see the development of this program, answer any
3 questions from SWANA's perspective. Thank you.

4 CHAIRPERSON PAPARIAN: Thank you very much.
5 Questions of Mr. Abernethy? We have one more speaker,
6 too. Any questions of Mr. Abernethy?

7 Mr. Jones.

8 COMMITTEE MEMBER JONES: Before your organization
9 was called SWANA, what was it called?

10 MR. ABERNETHY: GRCDA, Governmental Refuse
11 Collection and Disposal Association.

12 COMMITTEE MEMBER JONES: Made up of --

13 MR. ABERNETHY: It's always been pretty much
14 public and private sector operators, enforcement
15 personnel, and consultants.

16 COMMITTEE MEMBER JONES: Thank you.

17 CHAIRPERSON PAPARIAN: Thank you very much.
18 Jim Hemminger, Rural Counties.

19 MR. HEMMINGER: Thank you very much. Jim
20 Hemminger with the Rural Counties Environmental Services
21 JPA.

22 Just very briefly I did want to express
23 appreciation to both the Waste Board and to SWANA. Rural
24 Counties have long appreciated the benefits of
25 certification, but for financial reason, also travel

1 reasons to get to Monterey or San Diego or some of the
2 other locations, many of our counties in the northern area
3 haven't had an opportunity to afford MOLO training.

4 But we've been working on and developing a
5 program where the training course will actually be taken
6 out to the rural counties and to give on-site training to
7 both our operators as well as the local enforcement
8 agencies. I think this is a wonderful opportunity to get
9 the training, hopefully cut down on violations, and
10 educate both our operators and the enforcement agencies.

11 So with the previous concerns that the rural
12 counties had about the expense of the training have pretty
13 much been addressed. Looking forward to working with the
14 Waste Board and SWANA making this successful and hopefully
15 a potential for being a model program that will continue
16 into the program. So's all I want to say, thank you to
17 both SWANA and the Waste Board.

18 CHAIRPERSON PAPARIAN: Thank you, Mr. Hemminger.

19 I have a couple quick questions for you. The
20 Board provided basically some start-up money for this
21 program in the last couple of years. I don't remember the
22 exact amounts, but there was some cost associated with
23 getting this program going. You're now charging 800 and
24 some dollars per participant. Is it your expectation if
25 these regulations went through it would be essentially

1 self-supporting, that we wouldn't need to continually
2 allocate money to the program?

3 MR. PETKER: Don Dier might be able to help me
4 here. But let me start on that. I don't think there was
5 any seed money. There was staff time for this project,
6 but there was several training dollars spent at different
7 times but --

8 COMMITTEE MEMBER JONES: Mr. Paparian.

9 CHAIRPERSON PAPARIAN: Mr. Jones might be able to
10 elaborate. Go ahead, Mr. Jones.

11 COMMITTEE MEMBER JONES: Mr. Paparian, when we
12 first did this as a pilot program, we had two tracks that
13 Mr. Don Dier is going to tell you about because he
14 developed them. The dollars that the Board put in were to
15 deal with hiring a consultant and working with Mr. Dier to
16 address the ten most common violations of state minimum
17 standards throughout the state and to hold remote
18 training -- one-day trainings all over the state. We've
19 done that in three different rounds. The dollars dealing
20 with the SWANA MOU, there were no dollars expended by the
21 state other than staff time. But go ahead.

22 MR. DIER: That's what I was going to say.

23 CHAIRPERSON PAPARIAN: Let me just put it a
24 slightly different way. If we were to take this forward
25 and adopt the regulations and so forth, would you expect

1 any ongoing costs that would need to be allocated, other
2 staff time expenses, to the program?

3 MR. PETKER: There would probably be some
4 expenditures to train staff, depending on how the training
5 was done and the certification. But I don't foresee us
6 paying the cost of consultants, operators, or directly
7 LEAs.

8 CHAIRPERSON PAPARIAN: And then in terms of the
9 workshops themselves, you would see them be
10 self-supporting into the future?

11 MR. PETKER: Yes.

12 CHAIRPERSON PAPARIAN: My other question was --

13 MR. DIER: Well, if I may add. The concept when
14 we -- what Mr. Jones was alluding to, the original
15 contract was for training. And that has since evolved
16 into -- has been now resided and managed out of the
17 Training Office and the P&E Division. It first started in
18 the Policy Office. It's a more formalized now. I think
19 it might be advisable to consider some ongoing dollars in
20 future budgets to support the training effort.

21 One of the cornerstones of this arrangement with
22 SWANA as a part of the California certification is that
23 SWANA isn't able to provide necessarily enough units in a
24 three-year period. The certification is good for three
25 years. And they aren't able to provide enough training to

1 provide the 30 CEUs needed to maintain that certification.
2 So that's where the Board's training efforts have really
3 paid off and have provided, as Darryl indicated on one of
4 the slides, many of the CEUs.

5 CHAIRPERSON PAPARIAN: I hope you're not getting
6 from my question any objection to the program at all. I
7 think it's been a great program. It's one Mr. Jones
8 helped push it forward. It was a great idea, a great
9 movement on his part to get this thing through. All I'm
10 getting at in these tight budget times some understanding
11 about whether moving forward would result in some ongoing
12 costs. And what I'm hearing the answer to that is really
13 no, unless, you know, we wanted to pay for some of our own
14 staff to go through the training and that sort of thing,
15 as well as allocating some staff time and related expense
16 to the program itself.

17 DEPUTY DIRECTOR LEVENSON: Mr. Paparian, if I
18 could add in one comment. I think that's one of the
19 primary reasons why Darryl spoke to the need for some
20 informal workshops early on so we can look at the details
21 of a proposed certification program in terms of funding,
22 who's going to provide the training, what are specific
23 requirements that we come back to you with a regulatory
24 proposal, you know, those details and be able to consider
25 accordingly.

1 CHAIRPERSON PAPARIAN: My only other comment is
2 if we make this a requirement, if we go forward with
3 regulation and making this a requirement, presumably there
4 would need to be some sanction if you don't meet the
5 requirement, otherwise, it would be a toothless
6 requirement. So it's not really discussed in the agenda
7 item itself, but I think that we ought to look at some --
8 you know, what the options are for those who would fail to
9 meet the requirement, if there was a requirement.

10 MR. PETKER: That's been brought up several
11 times, not only if you don't make it, but what happens if
12 you didn't perform after you did reach the requirement.
13 That's one of the things I think will be worked out in the
14 scoping sessions and as we develop. But in the support
15 paper for that, there's a couple lines in that that says
16 it's very complicated and we need to work on that.

17 CHAIRPERSON PAPARIAN: Ms. Peace.

18 COMMITTEE MEMBER PEACE: In the development of
19 these regulations -- and you'll discuss everything in
20 terms of how much it will cost and who actually will pay
21 it, whether it will be the landfill or whether some costs
22 will be borne by the Board, and all those things will be
23 discussed adopting the regulations.

24 Also in terms of can some of the classes be given
25 over the Internet so the rural people don't have to come

1 in for all the classes? And will everybody be required to
2 take these classes, even, say, the landfills that don't
3 have any violations? So obviously they're doing a good
4 job. Will there be a test they can take to test out of
5 it? Will everybody be required to come to the classes?
6 Are these all the kind of things that will come out when
7 you --

8 MR. PETKER: The short answer is yes. We expect
9 all of those -- whether who and when and how often and all
10 the costs to be in that scoping session. A lot of the
11 things you've said have already been brought up. I didn't
12 bring them into the detail, but we have lists of the
13 questions that are being developed. And some people are
14 very anxious to approach those. But yes, all of those
15 will be.

16 And as far as the cost issue there will be --
17 it's my understanding in the regulatory process there has
18 to be a finding on cost and development. And all those
19 questions get answered to the satisfaction of you and all
20 the stakeholders.

21 COMMITTEE MEMBER PEACE: Also in terms of the
22 LEAs, are they all for this program?

23 MR. PETKER: I can't speak for all of the LEAs.
24 I think a lot of the people that have come to the class
25 like it. They like the interaction with the operators.

1 They'll end up having lunch with them and talking about it
2 and sharing views and kind of saying, "Okay, I see your
3 point." "I don't see your point." It gives them a little
4 different perspective than they normally get from their
5 training.

6 A lot of LEAs like it. Some are concerned about
7 having another regulation put on them. I think it's a
8 balance. Overall, yes. And when I speak for the LEAs, I
9 speak about those that take the course. I haven't had a
10 chance yet to get really good input from the directors,
11 and I think that will come with time in the successions
12 that we'll do.

13 COMMITTEE MEMBER PEACE: Thank you.

14 CHAIRPERSON PAPARIAN: Thank you.

15 Mr. Jones.

16 COMMITTEE MEMBER JONES: Just quickly. The
17 negotiations with SWANA have always included that if
18 companies or local governments have their own training
19 program, they don't have to go through the course. They
20 can just take the test. The cost of the test is about 125
21 bucks, 130. There is a cost. The cost doesn't go to us.
22 It's a SWANA cost. There is availability on the Internet
23 to do this.

24 The LEAs, operators, everybody was included in
25 1997 when we started these discussions. They've been

1 included all along. I'm going to be at CCDEH addressing
2 the LEAs on this program in the next couple of weeks -- I
3 don't know -- along with Darryl. We've kept them
4 informed. We've gotten their input all the way along the
5 line.

6 The importance of the program, I've said a
7 million times. But I think that most LEAs have an
8 appreciation because the more they understand about the
9 operations of the landfill, the better understanding they
10 have of their regs. But more importantly, the more an
11 operator understands what an LEA needs to do, the easier
12 it is for them to comply.

13 And the biggest resistance I've ever heard was
14 from inside this building. So I think that -- you know,
15 state staff sometimes may not want to do it, but it's
16 always been at the top of my list since June of '97 when
17 we started this project. So all three get included, or it
18 ain't a program so --

19 CHAIRPERSON PAPARIAN: Okay. Quickly, as we have
20 some other items.

21 MR. PETKER: Ms. Peace, your question about the
22 internet. Sharon Anderson and Mindy have already started
23 looking into development of training on the net.

24 COMMITTEE MEMBER PEACE: That's great, because
25 when you can get your Master's Degree and all that kind of

1 stuff on the Internet now, it's a good thing to look at
2 now.

3 CHAIRPERSON PAPARIAN: Thank you very much.

4 So the sense of direction I get is to move
5 forward with your Option 1. I think you heard some of the
6 comments from the members you'll incorporate as you move
7 forward.

8 COMMITTEE MEMBER JONES: I'll second.

9 CHAIRPERSON PAPARIAN: I don't think we need a
10 motion. I think they need a sense from the Committee.
11 I'm sensing full support.

12 MR. PETKER: Thank you.

13 CHAIRPERSON PAPARIAN: Okay. Next item, Mr.
14 Levenson.

15 DEPUTY DIRECTOR LEVENSON: Thank you, Darryl.

16 Item 24 is consideration of a revised full solid
17 waste facilities permit disposal facility for the Brawley
18 Solid Waste Site in Imperial County. And Leslee
19 Newton-Reed will be making the presentation on this item.

20 MR. NEWTON-REED: Good afternoon. The Brawley
21 Solid Waste Site is a landfill located to the north of the
22 city of Brawley. The site is owned and operated by the
23 county of Imperial, Department of Public Works.

24 The following changes are proposed: An increase
25 in tonnage from approximately 75 tons per day to 120 tons

1 per day; a defined disposal footprint of 34.3 acres within
2 the 55-acre permitted boundary; a change in permitted
3 hours from 24 hours a day, 7 days a week to 7:00 a.m. to
4 4:00 p.m., Monday, Tuesday, Thursday, through Saturday,
5 except holidays, for public haulers and 5:30 a.m. to 4:00
6 p.m., Monday through Saturday, except holidays, for
7 commercial haulers.

8 The changes to the revised proposed permit,
9 Attachment 3 revised, include a slight change in the hours
10 of commercial haulers and the inclusion of additional CEQA
11 documents. The LEA has made progress in addressing the
12 outdated permits in their jurisdiction. Of the nine
13 county-owned sites, this landfill represents the last of
14 the outdated permits in Imperial County.

15 In one of the Board's prior strategic plans, one
16 target was to update all permits that were issued prior to
17 1990. At that time there were approximately 69 of these
18 permits on record. Since then, most of these permits have
19 been revised, surrendered. The facilities have closed or
20 the facilities have been down-tiered.

21 If the Board concurs in adopting the Brawley and
22 Mojave permits -- Mojave is Item E on the agenda -- ten
23 old permits would remain to be updated.

24 In 2001 the Board approved the remediation
25 project of the landfills north slope adjacent to the new

1 river by the Solid Waste Disposal and Co-Disposal Cleanup
2 Program. Construction on the project began in February
3 2002 and was completed in May of 2002. Although there
4 were insufficient funds available for remediation of the
5 entire north face of the landfill, the most critical
6 portion was reconstructed, and construction for the final
7 closure in this repaired area should be minimal.

8 Board staff performed a pre-permit inspection of
9 the facility on June 19th, 2003, and documented two
10 violations; Public Resources Code Section 44004,
11 significant change; and Title 27, California Code of
12 Regulations Section 21600, report of disposal information.
13 Both of these violations will be corrected by the
14 concurrence and issuance of this revised permit.

15 As indicated on page 24-4 of the agenda item,
16 Board staff have determined that all the requirements have
17 been met. Therefore, staff recommends that the Board
18 adopt Solid Waste Facility Permit Resolution number
19 2003-446, concurring with the issuance of solid waste
20 facility permit number 13-8A-00008. The LEA is here to
21 answer your questions. This concludes staff's
22 presentation.

23 CHAIRPERSON PAPARIAN: Thank you.

24 Any questions, members?

25 Ms. Peace.

1 COMMITTEE MEMBER PEACE: Are the LEAs here? You
2 said the LEA is here.

3 MS. NEWTON-REED: Yes.

4 COMMITTEE MEMBER PEACE: Can I ask you a
5 question? It seems over and over again they do have a
6 violation for site security. Can you explain what that
7 is, and are they taking any steps to make sure this
8 doesn't continue?

9 MR. LAMOURE: This site is unique. One of the
10 sides which is the northern boundary of the landfill is --
11 actually, the site security is the route. So there is a
12 body of water that, in essence, provides some security for
13 that. There is on one corner of that particular location,
14 there was some access in and around the actual existing
15 fence. That's what we did, is have them extend the fence
16 out. That was one of the things that was kind of an
17 arbitrary or a debatable item that was sited. So they
18 finally corrected that. But site security in general has
19 been corrected.

20 COMMITTEE MEMBER PEACE: Thank you.

21 DEPUTY DIRECTOR LEVENSON: Can you identify
22 yourself for the reporter.

23 MR. LAMOURE: Jeff Lamoure, Imperial County LEA.

24 CHAIRPERSON PAPARIAN: This is more a statement
25 than a question. I noticed in your requirements -- and I

1 don't know what meaning this might have for another agenda
2 item than we have today. Do you allow for ADC but require
3 regular cover by six inches of dirt on a weekly basis on
4 every Wednesday, which seems like a fine requirement, but
5 I know we debated that in the context of the ADC regs.

6 MR. LAMOURE: It works well for this site.

7 CHAIRPERSON PAPARIAN: Any other questions?

8 Mr. Jones.

9 COMMITTEE MEMBER JONES: Mr. Chair, I'll move
10 adoption of Resolution 2003-446, consideration of revised
11 full solid waste facility permit for the Brawley Solid
12 Waste Site in Imperial county.

13 COMMITTEE MEMBER PEACE: Second.

14 DEPUTY DIRECTOR LEVENSON: Mr. Paparian, before
15 the Committee votes, we want to note one correction that
16 needs to be made in the resolution -- two, excuse me.

17 MR. DE BIE: Mark De Bie with Permitting and
18 Inspection. We had some last-minute modifications to the
19 permit that were caught, and the resolution didn't catch
20 up with them. The resolution indicates 5:30 a.m. to 3:00
21 p.m. It should be a 4:00 p.m. time frame. That was a
22 change in the permit. And the permit also identifies a
23 addendum to the CEQA document that is used to support the
24 permit. So with your concurrence, we could just revise
25 the resolution to change 3:00 p.m. to 4:00 p.m. and then

1 include a reference to the addendum.

2 CHAIRPERSON PAPARIAN: If there's no objections,
3 those are incorporated in the resolution.

4 Secretary, call the roll.

5 SECRETARY KUMPULAINIEN: Jones?

6 COMMITTEE MEMBER JONES: Aye.

7 SECRETARY KUMPULAINIEN: Peace?

8 COMMITTEE MEMBER PEACE: Aye.

9 SECRETARY KUMPULAINIEN: Paparian?

10 CHAIRPERSON PAPARIAN: Aye.

11 I think this will be a candidate for consent
12 agenda.

13 Next item.

14 DEPUTY DIRECTOR LEVENSON: Thank you, Mr. Chair.

15 That takes us to the second permit item on
16 today's calendar, Item 25 or Item E, which is
17 consideration of revised full solid waste facility permit,
18 disposal facility for the Mojave-Rosamond Sanitary
19 Landfill in Kern County. And Chris Deidrick will be
20 making this presentation.

21 MR. DEIDRICK: Good afternoon, Committee Chair,
22 Members.

23 The Mojave-Rosamond Sanitary Landfill was last
24 issued a solid waste facility permit July 16th of 1986 by
25 the Waste Board. The facility is owned and operated by

1 the Kern County Waste Management Department. And it
2 serves the Mojave-Rosamond California City Edwards Air
3 Force Base or southeastern Portion of the unincorporated
4 area of Kern County.

5 The proposed revised permit will allow for the
6 five following changes: Number one, increase the maximum
7 permitted daily tonnage from 42 to 470 per day; two,
8 change the estimated closure date from the year 1997 to
9 2014; three, increase the permitted maximum elevation from
10 2,658 feet to 2,685 feet; four, change the total permitted
11 boundary of the site from 40 to 253 acres. And please
12 note that this change will not alter the
13 currently-permitted footprint. This area will remain at
14 27 acres. And finally, the fifth change is a change in
15 the hours of operation.

16 The Committee should take note that Resolution
17 2003-447 for this item -- and you should have a copy of
18 the revision to this resolution in front of you and there
19 are some behind me at the back table. The revision
20 includes information on the state minimal overriding
21 consideration that was approved by the Kern County Board
22 of Supervisors. This was for cumulative impacts to the
23 air quality due to PM 10 emissions that were not
24 considered significant.

25 Board staff have determined that all the

1 requirements for the proposed permit have been fulfilled.
2 Board staff recommend that the Board adopt Resolution
3 Number 2003-447 as revised, concurring in the issuance of
4 solid waste facility permit number 15AA005A. This
5 concludes Board staff presentation.

6 Here today to respond to questions representing
7 the local enforcement agency is Diane Wilson of the Kern
8 County Environmental Health Services Department, and
9 representing the operator is Nancy Ewert from the Kern
10 County Waste Management Department.

11 CHAIRPERSON PAPARIAN: Any questions?

12 Ms. Peace.

13 COMMITTEE MEMBER PEACE: On the revision here,
14 where you said there will be some impacts to air quality,
15 this still needs to go before the Air Board then after we
16 hear it. So technically they could possibly turn the --

17 MS. EWERT: My name is Nancy Ewert. I'm the
18 technical resources manager for the Kern County Waste
19 Management Department. This will not go back before the
20 Air Board. We already operate under an air permit from
21 the Kern County APCD. The finding within CEQA was not
22 significant. But because we are in a non-attainment area
23 for PM 10, we made a recommendation to our Board that they
24 go ahead and make a finding of overriding consideration,
25 which they did. We do not go back before the Air Board on

1 this permit.

2 CHAIRPERSON PAPARIAN: Did you have anything
3 else?

4 COMMITTEE MEMBER PEACE: This is one of those
5 cases where you see they changed boundaries and changed
6 hours of operation and changed tonnage before coming to us
7 to get the permit revised. I'm really uncomfortable with
8 that, but I guess that's the way things have happened in
9 the past.

10 DEPUTY DIRECTOR LEVENSON: Ms. Peace, as you
11 know, this is -- the conformance finding for this is being
12 brought under the existing Board policy, the dot on the
13 map policy, if you will. And we understand, that is a
14 matter of discussion that's ongoing at the Board and there
15 are workshops. I think Pat is in the back if you need to
16 know the dates. This will be brought back before the
17 Board as a policy item later. But for purpose of this
18 permit, we're continuing under the existing policy.

19 COMMITTEE MEMBER PEACE: I guess my problem's
20 with the LEA, why it took so long. And also here it says,
21 "In anticipation of the final LEA evaluation findings, the
22 local enforcement agency then issued a Notice and Order to
23 the operator in May of 2002." That was like five years
24 after the 1997 compliance date. I'm just wondering why it
25 took so long.

1 DEPUTY DIRECTOR LEVENSON: We can ask the LEA to
2 respond.

3 CHAIRPERSON PAPARIAN: The LEA, why don't you
4 come and identify yourself for the record.

5 DEPUTY DIRECTOR LEVENSON: If I just preface the
6 LEA's remarks by noting that this has been a subject of
7 our LEA evaluation for Kern County. So we have been
8 acting on this. But that's just occurred in the last --
9 the evaluation was just completed in the last year or so.

10 MS. WILSON: My name is Diana Wilson. I'm with
11 the Kern County LEA.

12 In response to your question why it took so long,
13 we had 14 operating landfills. Those are the only
14 county-operated landfills. And most of those had permits
15 that were pre-1980. This was actually the newest permit
16 that we had. We focused on getting those other older
17 permits updated and successfully did that.

18 We were working on the Mojave-Rosamond Sanitary
19 Landfill, and the operator ran into some problems. The
20 permit review was due in 1991, and at that time we
21 recognized it needed to be updated. There were issues
22 with a specific plan developed by our planning department
23 that had been corrected. They were biota issues that had
24 to be resolved. And there was finally CEQA that had to be
25 completed. In our most current Notice and Order, we did

1 recognize all of those issues and asked -- set dates for
2 those to be complied with and that those -- that we would
3 receive updates on those issues.

4 As far as the boundaries go, it's really not an
5 increase in the facility boundary. What's being done is
6 the facility is adding buffer area. And as part of this,
7 it's an entire look at all of our landfills in Kern
8 County. We're going through a general plan amendment or
9 update that hasn't been done for 20 years. And part of
10 those requirements and the general plan will be that all
11 the existing and new landfills or other types of waste
12 facilities obtain buffer area. And that is to minimize
13 incompatible land uses adjacent to the landfill. It
14 protects the landfill. It protects the people. The other
15 types of facilities, composting facilities, and transfer
16 stations will have smaller buffer areas.

17 And then we also have an overlay for burn dumps
18 so that when a project comes along in the general plan or
19 the plan -- or looks at the general plan, they see it.
20 They can note that, well, there's a landfill there, and
21 they have X amount of buffer area that may be impacted.
22 And that will give our department and the operator
23 opportunity to discuss that. So that will be in effect
24 probably at the end of this year.

25 We see this as our last outdated permit, and we

1 would appreciate concurrence on this resolution because we
2 see it as a very good step forward to bring most of our
3 facilities into compliance. And the rest of them have
4 either closed or have been repermited.

5 Any other questions?

6 COMMITTEE MEMBER PEACE: Yes. Thank you. I'm
7 glad to hear all the old permits are up to date. I do
8 hope in the future you do make it clear to the operators
9 if they're going to change their hours of operation or
10 change anything in the permit that it really does need to
11 come before the Board before they do it.

12 MS. WILSON: Yes, I understand that. And they
13 fully understand that now. Okay.

14 COMMITTEE MEMBER PEACE: Thank you.

15 CHAIRPERSON PAPARIAN: One of the things that
16 always catches my eye is when we have a county LEA in the
17 a county-run facility, I always ask the question, would a
18 private operator be handled any differently? And the
19 answer should always be no. We should have consistent
20 regulation of all facilities in the state. On the one
21 hand I see there were 71 violations noted since 1999.
22 That indicates some aggressiveness on your part to look
23 forward and find the violations and note them. But on the
24 other hand, I always wonder whether if it was a private
25 facility whether they would have gotten away with that

1 much for so long so.

2 Again, that's not really a question it's more a
3 statement to really -- you know, I know how difficult it
4 must be working for the county and it's a county-run
5 facility. But we look to you to make sure that the county
6 facility is handled just like a privately-owned facility
7 would be handled.

8 MS. WILSON: I understand that. The county owns
9 the majority of the facilities. We do have some private
10 institutions. And we try to approach them equally. We
11 have problems on some other sites as well, and we're
12 trying to work with education and bringing them into
13 compliance. So appreciate your comments.

14 CHAIRPERSON PAPARIAN: Thank you.

15 Mr. Jones.

16 COMMITTEE MEMBER JONES: Mr. Chair, I'll move
17 adoption of Resolution 2003-447, revised consideration of
18 the revised full solid waste facility permit for the
19 Mojave-Rosamond Sanitary Landfill in Kern County.

20 COMMITTEE MEMBER PEACE: Second.

21 CHAIRPERSON PAPARIAN: We have a motion and a
22 second.

23 Secretary, call the roll.

24 SECRETARY KUMPULAINIEN: Jones?

25 COMMITTEE MEMBER JONES: Aye.

1 SECRETARY KUMPULAINIEN: Peace?

2 COMMITTEE MEMBER PEACE: Aye.

3 SECRETARY KUMPULAINIEN: Paparian?

4 CHAIRPERSON PAPARIAN: Aye.

5 Any reason not to put this on consent? No.

6 Okay. Goes on consent. Thank you.

7 DEPUTY DIRECTOR LEVENSON: Okay. Only three
8 items left. Item F -- and we'll need the PowerPoint for
9 this one, please -- is a discussion of and request for
10 direction regarding long-term gas violation policy. This
11 will be presented by John Bell. And John will review some
12 of the history. As you know, this has had lengthy
13 discussion at the Board back in 2000 and 2001 and a
14 follow-up discussion in the last year, about a year ago.
15 So we're coming back to you with a request for direction
16 regarding potential rule making.

17 John.

18 (Thereupon an overhead presentation was
19 presented as follows.)

20 MR. BELL: Thank you. Good afternoon, Chair and
21 Committee members.

22 --oOo--

23 MR. BELL: A little bit of history first. It was
24 over nine years ago, in July 1994, that the Board first
25 adopted its written policy for dealing with long-term

1 state minimum standard violations. And this was
2 considered in concurrence with revised permits. A
3 long-term violation was considered to be any violation
4 that took more than 90 days to correct. The policy was
5 originally for use when the Board was acting as an
6 enforcement agency, like in the County of Santa Cruz, but
7 it has sinse been used by LEAs throughout the state.

8 In November of 2000, the Board again discussed
9 its long-term violation policy and the discussion focused
10 on the need for further analysis with respect to good
11 faith effort demonstrated by the operator and threatened
12 the public health, safety, and the environment.

13 And then it was only a month later in December of
14 2000 that the state auditor's report was published. The
15 auditor's report contained a recommendation that the Board
16 discontinue its long-term violation policy as it was
17 "inconsistent with state law and does not yield results
18 that are in the state's best interest because it allows
19 long-term violations that effect the environment or public
20 to go uncorrected for extended periods." The report also
21 recommended if the policy was necessary, the Board should
22 request the Legislature to grant it the necessary
23 authority.

24 Then in its January 2001 meeting, the Board again
25 addressed this violation policy issue. As of that

1 meeting, 18 permits have been brought forward over the six
2 years. All were long-term violations for landfill gas
3 issues. As a result of the January 2001 meeting, staff
4 worked with Board Members Jones and Roberti to develop
5 regulatory concepts. Then at its August 2002 meeting of
6 the P&E Committee, there was further discussion of the ten
7 regulatory concepts that were developed with Board Members
8 Jones and Roberti and with Board staff.

9 --o0o--

10 MR. BELL: This slide which is in your agenda
11 package is Attachment 2 -- I'm sorry -- is Attachment 1
12 shows the long-term violation policy that's been in effect
13 all these years. The key point at the very start is there
14 imminent threat to public health, safety, and the
15 environment. And if there is, then this policy doesn't go
16 into effect. But if there isn't, then the policy begins.

17 For the 19 facilities, they're included in
18 Attachment 2 in your packet.

19 --o0o--

20 MR. BELL: The ten regulatory concepts that were
21 developed by Board staff with Board Members Jones and
22 Roberti are listed on page 6 in your agenda item. Board
23 staff were also directed to form a Technical Advisory
24 Group of landfill gas experts to seek from that group
25 input on technical issues related to the ten concepts.

1 That can be -- well, that is also in your agenda item on
2 page 6.

3 --o0o--

4 MR. BELL: Now there are six options that we
5 brought before you today. Option 1 is basically to stop
6 using the policy and don't concur on solid waste facility
7 permits when a long-term violation exists.

8 --o0o--

9 MR. BELL: Option 2, let the policy stand as is
10 and take no further action, just continue using the
11 existing policy.

12 --o0o--

13 MR. BELL: Option 3, which was recommended by the
14 Technical Advisory Group, is to continue to use the
15 existing policy. And in addition, use the guidance that
16 was developed by the Technical Advisory Group, and that is
17 the last attachment. The summary of that is in your
18 agenda packet, Attachment 3, in addition to study for 18
19 months how this was working.

20 --o0o--

21 MR. BELL: Option 4 was to -- in Option 4 we
22 would develop a new subsection to California Code of
23 Regulation 21685 that codifies existing policy. In other
24 words, take that flow chart and put it into words. It
25 would include a subsection and additional area that wasn't

1 in the original policy recording landfill expansion, and
2 that's Concept 8. It would also incorporate Concept 6,
3 which is allow the Board to have review of mitigation
4 measures. Neither of these were included in the original
5 policy.

6 --o0o--

7 MR. BELL: Finally, we would be directed to use
8 the existing policy until a new set of regulations is
9 promulgated.

10 --o0o--

11 MR. BELL: Now, Option 5 directs staff to codify
12 all ten of the regulatory concepts and again use existing
13 policy until the new regs become effective.

14 --o0o--

15 MR. BELL: And last, Option 6, is to direct staff
16 to conduct more analyses based on new Board input and then
17 use the existing policy until new regs become effective.

18 --o0o--

19 MR. BELL: Staff recommends Option 4. And Option
20 4 retains the policy and strengthens it by putting it into
21 regulation. It adds the regulatory Concept 6 requiring
22 mitigation -- review of mitigation measures by the Board
23 staff. And it adds Concept 8, which requires where
24 there's any expansion that there be a determination of the
25 impacts on air and water. It allows existing policy to

1 remain in effect until the new regs become effective. It
2 includes the guidance that was developed by the TAG, the
3 Technical Advisory Group. It takes into account that the
4 other remaining regulatory concepts are already basically
5 incorporated in the existing regulations. It would allow
6 a site to obtain a revised permit and allow clarification
7 of permit, terms and conditions, make enforcement action
8 easier. It would allow permits to be updated and revised
9 with clear permit terms and conditions that are supported
10 by CEQA. It would recognize that it typically takes up to
11 two years to implement gas mitigation measures and correct
12 long-term violations. It would recognize good faith
13 efforts on the part of operators and would include the
14 Board in review of mitigation measures.

15 On the downside, it would not comply with the
16 state auditor's recommendation regarding legislation. And
17 it does not address all the ten regulatory concepts in a
18 formal rule making process.

19 So questions?

20 DEPUTY DIRECTOR LEVENSON: I'd like to provide a
21 concluding remark that if we move towards this in a
22 regulatory mode, it would codify existing policy which, as
23 John indicated, starts with a determination about there
24 being imminent threat or not at the site. If there's not
25 an imminent threat, the next part would be a determination

1 there's been an enforcement action by the LEA and a
2 subsequent assessment determination that the operator is
3 in compliance with responding to the enforcement action,
4 as well as provide additional review by the Waste Board on
5 the mitigation measures and addressing expansion plans.

6 So this would place into regulatory framework and
7 give the Board, we think, a good framework for making
8 decisions about permits when they come to you with
9 long-term gas violations.

10 CHAIRPERSON PAPARIAN: We do have several
11 speakers. Any questions before we get to speakers?

12 COMMITTEE MEMBER JONES: I have one.

13 CHAIRPERSON PAPARIAN: Mr. Jones.

14 COMMITTEE MEMBER JONES: Thanks. We keep talking
15 about the auditor's report. The one thing we're not
16 saying is that the Board disagreed with the auditor's
17 report on this thing with what our authority was. So I
18 just want to get it on the record that while the auditor
19 didn't like it, this Board held from day one that we not
20 only had the authority, but that it was a good policy.

21 DEPUTY DIRECTOR LEVENSON: Correct. And we've
22 actually indicated that in the body of the item that the
23 Board disagreed with that recommendation but --

24 COMMITTEE MEMBER JONES: Just for the purposes of
25 the presentation.

1 CHAIRPERSON PAPARIAN: I'm not sure -- didn't we
2 have a 3-3 vote at one point on whether to suspend the
3 policy?

4 COMMITTEE MEMBER JONES: No.

5 DEPUTY DIRECTOR LEVENSON: You had a 3-3 vote on
6 whether to suspend the policy, but I should probably
7 rephrase what I said. The staff indicated that we did not
8 believe -- we did not agree with the auditor's report that
9 we did not have authority to go forth with the
10 regulations.

11 CHAIRPERSON PAPARIAN: So I'm not sure it was
12 really a position with the Board on that item.

13 COMMITTEE MEMBER JONES: It was a response by the
14 Board; right?

15 CHAIRPERSON PAPARIAN: I don't think it was --
16 the only vote I remember it was a 3-3 vote.

17 DEPUTY DIRECTOR LEVENSON: I don't recall the
18 exact response we had to the auditor's report. We can
19 certainly go back and research that.

20 CHAIRPERSON PAPARIAN: The next time it comes up
21 it sounds like maybe Mr. Jones and I would like some more
22 of the history recollected so we can deal with that
23 another time.

24 First witness I have is Mike Mohajer. I don't
25 know if I should call you a speaker emeritus. You don't

1 get another resolution by us by coming back, by the way.

2 MR. MOJAHER: Thank you, Mr. Chair. And I do
3 want to thank all the Board members for the resolution.
4 But I'm before you on behalf of the Los Angeles County
5 Integrated Waste Management Task Force.

6 CHAIRPERSON PAPARIAN: Welcome back. It's good
7 to see you back.

8 MR. MOJAHER: As was mentioned, upon my
9 retirement, the County Board of Supervisors appointed me
10 to the Task Force, so now I'm a member of the Task Force
11 representing the public on the Task Force.

12 The issue of the landfill gas is very dear to my
13 heart and something I have been trying to somewhat,
14 somehow address since 1979, which started with the BKK
15 landfill in the city of West Covina.

16 But having said that, I looked at staff proposal
17 with Option 4. I personally don't have any problem with
18 exception of Concept 6 that has been included in Option 4.
19 And the reason for it is that if you look at the Water
20 Board, the Air Board, you always have the local air Board
21 like AQMD, APCD, Regional Water Quality Control Board, and
22 the function of the local enforcement agency on behalf of
23 the Waste Board is to have a local representative. And
24 that's how the LEA was formed to do and recognize local
25 situations.

1 And based on that fact, concern was raised that,
2 well, maybe not all the LEAs are adequately trained to do
3 the job that they are being assigned to do. And basically
4 looking at also the state auditor report really the
5 question came up that really it wasn't a violation. It
6 was that maybe the requirement of the LEA and how the LEAs
7 are supposed to be trained and perform their duties are
8 not being enforced.

9 So on that basis, I continue to oppose Concept 6,
10 which means that Waste Board staff at Sacramento are going
11 to get involved with the review of the landfill gas. You
12 do have the local enforcement agency that at the local
13 level they have to do their job. And if they are not
14 capable of doing their job, then I would say it is a Waste
15 Board failure to enforce requirements of the LEA, and they
16 should not have certified to LEA to start it. Thank you.

17 CHAIRPERSON PAPARIAN: Thank you very much.

18 Next we have Teresa Dodge from the Sanitation
19 District of Los Angeles, followed by Don Gambelin,
20 followed by Sean Edgar.

21 MS. DODGE: Good afternoon. Teresa Dodge, L.A.
22 County Sanitation District. The Sanitation District was
23 also part of the Technical Advisory Group and we thank you
24 for that opportunity to participate.

25 As a group, we reached consensus on everything

1 but item 9 -- sorry -- Concept Number 6. And that
2 generally is that there should be no new regulations. And
3 this was a result -- the consensus was almost all these
4 issues are very site-specific when you're talking about
5 long-term gas migration problem. And as a result, they
6 cannot be handled by statewide one-size fits all
7 regulations. That's why the group across the board
8 recommended increased guidance instead of regulations.

9 Particularly, we have a concern with Concept
10 Number 6, which did not receive consensus. The problem we
11 see happening here -- and this is involving bringing Waste
12 Board staff into the review of any mitigation plan if the
13 operator was to propose to rectify the migration problem.

14 The problem we have with that is the timetable.
15 Assuming you have a good operator who wants to clean up
16 the problem, they propose something to the EA. The EA has
17 to review it. And now you're adding another level of
18 review. While these two regulatory bodies are reviewing
19 the plan, the operator is sitting there in violation and
20 can't do anything about it. And so we're concerned about
21 putting them in that sort of jeopardy, adding another
22 layer of review that isn't necessarily required to each
23 and every program that might come up, we see is unduly
24 burdensome and restricting the operator's ability to fix a
25 landfill gas problem.

1 CHAIRPERSON PAPARIAN: Any questions of this
2 witness? I just wanted to -- I mean, there is an argument
3 that I've heard that we shouldn't move forward with
4 regulations. And the only caution I would offer on
5 that -- Mr. Bledsoe and Mr. Block are going to hate me for
6 saying this. But the existing policy looks and smells
7 like an underground regulation. And if anybody were ever
8 to bring forward a challenge to an action involving a gas
9 violation, you might not like the result if they were
10 successful in showing that it had the look and smell of an
11 underground regulation. I don't know if that made sense
12 or not.

13 MS. DODGE: It does. It's a difficult position
14 you're in. We want to make sure anything you went ahead
15 with wouldn't put additional burden on our operators
16 trying to fix a difficult situation.

17 CHAIRPERSON PAPARIAN: Thank you.

18 Don Gambelin.

19 MR. GAMBELIN: Good afternoon, Donald Gambelin
20 with Norcal Waste Systems.

21 Obviously, it's difficult for private industry to
22 comment on whether or not a regulation is needed or you
23 continue to rely on a policy. I think either one,
24 provided it ends up with the same result we currently find
25 ourselves in, is the best approach to take. And what I

1 mean by that is that the policy has been very effective.

2 Being in private industry and having worked within the
3 bounds of that policy, it does work extremely well.

4 My biggest concern is that the recommendation of
5 staff implements or proposes to implement Concept Number
6 6, which says that you've got to get a whole lot more
7 approval and oversight and discussion back and forth
8 before an operator can go ahead and implement something.
9 That's problematic when the operator is charged with
10 addressing an imminent threat to public health and safety.
11 Does that operator go ahead with implementing something
12 knowing full well, in fact, that approach may be
13 overridden and something else has to be put into place? I
14 would suggest that any regulation that's adopted simply
15 allow the operator in working with landfill gas experts
16 and other required disciplines to take the effective
17 approach and not have to rely on Board staff approval.

18 So I would support Option Number 4, but certainly
19 remove the idea that Concept 6 should be accompanying
20 that. Thank you.

21 CHAIRPERSON PAPARIAN: Thank you.

22 Sean Edgar, followed by Larry Sweetser.

23 MR. EDGAR: Mr. Chairman and Committee members.
24 Sean Edgar on behalf of the California Refuse Removal
25 Counsel. We offer a few brief comments this afternoon.

1 It seems that Option 5 is probably the best, encompasses
2 the range of options that your staff has presented.
3 Option 5 provides probably the best fit because it's most
4 inclusive of the 2001 concepts with the caveat we
5 understand the comments of other speakers here that
6 Concept 6 needs some additional work put to it without a
7 doubt. However, we believe that the advantages of
8 carrying forward all of the remaining -- or rather all of
9 the concepts that were part of the 2001 Board policy
10 discussion have some value to them with regard to the
11 disadvantages that were noted by your staff.

12 With that particular option, they indicated that
13 there might be some duplicative nature or there are
14 certain concepts that are already directly or indirectly
15 addressed in current regulations. And even if there are a
16 few items that are indirectly addressed in current
17 regulations, we feel there would be some value with regard
18 to clarity for operators for items that aren't directly
19 addressed.

20 So with that, I'd like to conclude my comments
21 and thank you for your consideration of the item and
22 appreciate working through the Concept 6 language. Thank
23 you.

24 CHAIRPERSON PAPARIAN: Thank you. Larry
25 Sweetser.

1 MR. SWEETSER: Good afternoon, Chairman, Board
2 members. My name is Larry Sweetser on behalf of the Rural
3 Counties Environmental Services Joint Powers Authority.
4 We were not involved in part of the group discussions. We
5 found out a little bit more about that today. I might
6 have shaped my testimony a little bit more.

7 But on behalf of one of our operators, Tehema
8 County, that was caught in the loop of not having a
9 formalized policy a number of months ago in trying to get
10 a permit, I think from their perspective and on behalf of
11 rural counties we'd like to see a lot more certainty in
12 the process. And if we can do that via a policy, so be
13 it. If not, then we would promote a little more certainty
14 by having some sort of regulatory package.

15 I do agree it would be difficult to acknowledge
16 all the situations in that package. So maybe that could
17 be a framework for what to do next in the process, not so
18 much a step by step absolute guidance in that regulatory
19 package. Leave some discretion to address those case by
20 case situations. So that's --

21 CHAIRPERSON PAPARIAN: Thank you very much.

22 Members, comments. Ms. Peace.

23 COMMITTEE MEMBER PEACE: I'd like to hear from
24 staff on what your take is on that, Concept 6. Does it --
25 is the Board hard to get ahold of? I mean, is it hard for

1 us to get down there with the LEA at the same time? Why
2 is there such a --

3 MR. BELL: No. The way we see it, first of all,
4 we're not going to be even looking at an issue like this
5 unless there is a permit coming forward for revision. To
6 bring a permit to the Board, the staff has to review all
7 the data that comes from the LEA anyway. We also would
8 see it as a review that would be done concurrently with
9 the LEA. So it wouldn't hold them up in any way as far as
10 we can see. It's something we do now anyway.

11 COMMITTEE MEMBER PEACE: Thank you.

12 CHAIRPERSON PAPARIAN: Mr. Jones.

13 COMMITTEE MEMBER JONES: I think, Mr. Bell, when
14 you say you do it anyway, I think you do it anyway. I
15 think Option 6 is redundant. But what -- and I would
16 rather see that it not be in there, because I just see it
17 taking more time. You guys get the information anyway.
18 But to wait for one of your approvals could take quite a
19 while and probably doesn't make a whole lot of sense since
20 you're going to see them anyway.

21 DEPUTY DIRECTOR LEVENSON: I think one of the
22 ways we were interpreting this is that this would be
23 assisting the LEA in reviewing the various proposals as
24 opposed to a separate review and approval step. That may
25 not have been clear in that.

1 COMMITTEE MEMBER JONES: It doesn't look like
2 that. I mean, in front of your task force that you put
3 together, the whole task force was against it, except the
4 Waste Board staff, is the way I read that little blurb.

5 MR. BELL: That's correct.

6 COMMITTEE MEMBER JONES: So, you know, I'm
7 wondering -- you know, I mean, we heard some testimony I
8 guess from some of them. But if you guys are so insistent
9 on it, where do you see the benefit? Where's the benefit
10 in having you involved?

11 MR. BELL: Well, it was a concept that we had to
12 address. And in doing that, you know, we felt that it
13 would help -- definitely help some LEAs that don't have
14 the resources. And those that did wouldn't need much at
15 all. We don't envision it as some laborious process. We
16 haven't flushed out the words for it.

17 COMMITTEE MEMBER JONES: Right. But if an
18 operator has got an obligation to put together a gas
19 mitigation plan, they're going to do their investigation
20 first. That's going to go to the LEA. Usually, there's
21 consultation with Board staff at that point; right?

22 MR. BELL: That's correct. Or there should be.

23 COMMITTEE MEMBER JONES: Don't they have to? I
24 mean, right now, well, you're signing off on the Notice
25 and Order to make sure that everything is hit. But one of

1 the conditions in the Notice and Order is that Board staff
2 be informed at every step of completion through the Notice
3 and Order; right?

4 MR. BELL: That's correct.

5 COMMITTEE MEMBER JONES: You don't waive that.
6 So as those pieces come forward, isn't that information
7 delivered to you via the Notice and Order requirement?

8 MR. BELL: That's correct.

9 COMMITTEE MEMBER JONES: So it could be a
10 redundant requirement on your part, is all I'm getting at.
11 I'm not saying that you don't have a right to the
12 information. It just seems to me that highlighting it as
13 a right when you've already got that authority and
14 responsibility, that makes me think it's something bigger
15 than what I'm hearing. You know what I mean?

16 DEPUTY DIRECTOR LEVENSON: If it's the
17 Committee's pleasure, we can certainly remove that
18 concept. I think it's important to recall, too, that in
19 2001, the January discussion, we basically were directed
20 to come back with a regulatory proposal that included all
21 the concepts. And really what we're coming back here
22 today is with something that's scaled back from that
23 because we think a lot of the concepts, some of the first
24 four or five, should be dealt with more on outside the
25 framework of regulations, more on a site by site guidance

1 procedure. And it certainly -- the review issue could be
2 looked at in that way as well, that we would be involved
3 early on through the N&O process.

4 So our primary concern is being responsive to the
5 Board's direction in the past and getting some clarity as
6 to, you know, this policy or regulation so that we know
7 where to proceed from now on.

8 COMMITTEE MEMBER JONES: So I guess my question
9 then is, the work that staff did with Senator Roberti and
10 myself that the Board had approved that policy -- that new
11 policy included these ten pieces?

12 DEPUTY DIRECTOR LEVENSON: Correct.

13 MR. BELL: That's right.

14 COMMITTEE MEMBER JONES: But we never said in
15 that work exclude the ones that are redundant, because a
16 lot of them are redundant, but it made people happy that
17 they were in. So it was fine with me. It actually made
18 it easy because they were already in law. But that's what
19 people wanted. So I've always thought that the policy and
20 the regulations that were going to come forward were going
21 to include those ten pieces at a minimum, let's say, for
22 the sake of adding these two other concepts, is that
23 not --

24 DEPUTY DIRECTOR LEVENSON: Is that Option 5.

25 COMMITTEE MEMBER JONES: Is these ten?

1 DEPUTY DIRECTOR LEVENSON: Correct.

2 COMMITTEE MEMBER JONES: To include language
3 about these ten. So there is redundancy in there.

4 And then so my question on 6 I think is answered.
5 I mean, as I see it, you guys are going to see that stuff
6 through the Notice and Orders anyway. So that's more
7 redundancy.

8 Eight, when I looked at these two scenarios, I
9 only have one question. Any time you expand a landfill
10 and you take in waste that's going to degrade, it's going
11 to make gas. So that one was kind of written in a way
12 that you can't do an expansion without an understanding
13 that you're going to increase the potential for gas at
14 some point.

15 MR. BELL: Also included in that is the concept
16 of expanding the boundary to have compliance, which the
17 Board has addressed in the past and was concerned with.
18 So it takes care of that issue too.

19 COMMITTEE MEMBER JONES: But it said as long as
20 there was a system in place, you know -- I mean, that was
21 part of what we had talked about in those ten pieces so.
22 Okay.

23 CHAIRPERSON PAPARIAN: One additional thing I
24 would like to see explored, and I think we've talked about
25 that in the past a little bit, is the potential for adding

1 some penalties for violations on landfill gas. So as we
2 move this regulatory package forward, I'm sure we're going
3 to have a lot of further discussion, a lot of give and
4 take, a lot of, you know, alteration. So, you know, as we
5 go forward, my inclination would be to agree with
6 Mr. Edgar -- note, Mr. Edgar, that I'm agreeing with
7 you -- agree with Mr. Edgar we ought to move forward with
8 Option 5, but recognizing that over time we're going to
9 see this regulatory package a whole bunch of times. We're
10 going to have a whole bunch of debates about it. And it
11 will probably look, I would imagine, a bit different than
12 it would if you just took Option 5 literally today. But
13 again, I'd like to also see explored what a penalty
14 provision might look like in that package.

15 Does that sound all right, members?

16 COMMITTEE MEMBER JONES: Yeah. I don't have a
17 problem with that. I think though, too, we need to also
18 have at least the information that LEAs can already assign
19 penalties. If some of these things are chronically
20 violated, we ought to know that too.

21 CHAIRPERSON PAPARIAN: Whatever information would
22 be useful will be well taken; is that right? Is that
23 clear enough?

24 DEPUTY DIRECTOR LEVENSON: Yes. We'll proceed
25 with Option 5 with the understanding that could change a

1 lot over time. And we'll be back to you with a -- we'll
2 have to undertake some informal workshops and flush this
3 out. And then we'll be back to you with a proposal for
4 consideration. And I don't have a time frame at this
5 point. If you can give me a little time to work that out.

6 COMMITTEE MEMBER JONES: Can I ask one question,
7 Mr. Chair?

8 CHAIRPERSON PAPARIAN: Mr. Jones.

9 COMMITTEE MEMBER JONES: I appreciate the term
10 "may change," because we all have our nuances, because I
11 get scared working through as many regulatory packages as
12 I've had to vote on over time. Five is the foundation for
13 what the regulation package is going to look at; right?
14 And then there may be some changes that will come along as
15 a result of that. I think that's what you were alluding
16 to.

17 CHAIRPERSON PAPARIAN: That's what I said. I
18 asked them also to come back --

19 COMMITTEE MEMBER JONES: With the penalty stuff.

20 CHAIRPERSON PAPARIAN: -- with what penalties
21 might look at. And fully recognizing in the end we might
22 take four out of the ten. You know, who knows what we
23 might do. I can't predict what we might do. We might
24 come up with something else in the regulatory process that
25 we might want to add to it. None of us can predict that.

1 I think looking back to some of the contentious regulatory
2 processes we've had over the last few months, I think we
3 all know that.

4 COMMITTEE MEMBER JONES: All right. It's just --

5 CHAIRPERSON PAPARIAN: I mean, to answer your
6 question. This is the foundation. This is the direction.

7 COMMITTEE MEMBER JONES: Thanks.

8 CHAIRPERSON PAPARIAN: Is that --

9 COMMITTEE MEMBER JONES: That works.

10 DEPUTY DIRECTOR LEVENSON: To clarify for
11 everyone and myself included, we will be starting with the
12 ten concepts including Concept 6 and all the others. And
13 we will have discussions with stakeholders and come back
14 to you with some recommendations from there.

15 CHAIRPERSON PAPARIAN: Right. And then what
16 penalties might or might not look like. Right. Okay.

17 I think we should take a break -- a ten-minute
18 break. Come back at 3:00 for our next two short items.

19 (Thereupon a recess was taken.)

20 CHAIRPERSON PAPARIAN: We'll start up again.

21 Ex partes, Ms. Peace.

22 COMMITTEE MEMBER PEACE: I talked to Chuck Helget
23 and Chuck White regarding SB 1078, and to Chuck White
24 regarding C&D two.

25 CHAIRPERSON PAPARIAN: I spoke with Chuck Helget

1 about the same topic.

2 Mr. Jones.

3 COMMITTEE MEMBER JONES: With Mark Aprea on C&D
4 and Kelly Aster on C&D two, and John Cupps on a series of
5 AB 393 related issues.

6 CHAIRPERSON PAPARIAN: Okay. We're now on Item
7 G, which is the ADC item.

8 DEPUTY DIRECTOR LEVENSON: Good afternoon, again.
9 This is discussion and request for rule making direction
10 on noticing revisions to the proposed regulations for
11 revised alternative cover daily regulatory requirements
12 for an additional comment period. So after the
13 presentation by Reinhard Hohlwein, you know, we're
14 basically seeking your direction to go out again for an
15 additional 15-day comment period.

16 CHAIRPERSON PAPARIAN: We've heard this several
17 times. So hopefully you'll focus on some of the current
18 issues with it.

19 MR. HOHLWEIN: Of course we will. This is
20 Reinhard Hohlwein from the P&I branch.

21 (Thereupon an overhead presentation was
22 presented as follows.)

23 MR. HOHLWEIN: Good afternoon, Committee members.
24 Today's item is request for direction on beginning another
25 15-day comment period for the proposed revised ADC

1 regulations package we've been working on for the Board's
2 consideration.

3 A 60-day comment period initiated the formal part
4 of the rule making in order for all concerned parties to
5 consider those regulations and provide appropriate
6 comments to the Board. The first comment period -- the
7 60-day comment period ended on June 17th. An additional
8 15-day comment period recently ended on August 22nd.

9 Staff have reviewed the comments, met with the
10 stakeholders, and we have revised the proposed
11 regulations. And those are on the PowerPoint
12 presentation. The four notable changes to the regulations
13 are clarification on how to enforce state minimum
14 standards when ADC is not in compliance with these
15 regulations; clarifying the ability for landfill operators
16 to have maximum flexibility with regard to the application
17 and tracking of ADC materials, including those operators
18 who do not have scales; clarification on EA approval for
19 alternate grain size for ADC; and clarification of the
20 need for the operators to submit a site-specific request
21 for approval from any EA regarding any type of ADC which
22 they wish to use.

23 --o0o--

24 MR. HOHLWEIN: So looking at the PowerPoint, the
25 first one, this is the existing language regarding the

1 alternative -- or the grain size specifications. And the
2 new language mentions if you have an alternative grain
3 size approved by the EA, that you do not need to
4 pre-process. So we made that change, and that is a
5 relatively straightforward one. It acknowledges the
6 alternatives that we were looking for in this package.

7 --o0o--

8 MR. HOHLWEIN: The next one was a little more
9 controversial. We were looking to find methodologies for
10 keeping operators in compliance with state minimum
11 standards when ADC was not working well and when it was
12 not performing up to what everybody's hopes would be. So
13 the new language says whenever an EA determines that an
14 application of ADC is not meeting the requirements of this
15 standard, the EA may direct the operator to immediately
16 cover the soil with ADC.

17 --o0o--

18 MR. HOHLWEIN: And if the continuing use of ADC
19 does not meet the requirements of the section, that may
20 become the basis for the EA to take enforcement action to
21 seek compliance with the requirements of this section.

22 --o0o--

23 MR. HOHLWEIN: The next change has to do with
24 pre-approval. There have been some concerns coming from
25 the LEAs that operators did not understand that ADCs

1 needed to be approved on a site-specific basis. So we've
2 included some new language there. All types of ADC still
3 must be approved by the EA in writing prior to the use of
4 solid waste landfills as consistent with Title 27, which
5 has to do with processing permits and RFI amendments.

6 --o0o--

7 MR. HOHLWEIN: And one more small change on the
8 way the material is counted on site in regards to the RDSI
9 or the JTD. We want to change the language to "estimate
10 the range in tons to these materials," instead of some of
11 the more prescriptive language that was there before.

12 --o0o--

13 MR. HOHLWEIN: And finally, to acknowledge the
14 rural landfills that don't have the benefit of scales,
15 that the regulations will fit their needs in materials
16 accepted at landfills that have scales to be used as
17 alternative daily cover et cetera. And that appropriate
18 conversion factors will be applied at landfills which do
19 not have scales. That's it.

20 So we're getting closer. We're looking to go out
21 for one more comment period, and we'd like to come back in
22 October for hopefully approval. And if you have any
23 questions, we'd be happy if answer those.

24 CHAIRPERSON PAPARIAN: We do have some speakers.

25 Mr. Jones.

1 COMMITTEE MEMBER JONES: Just two quick
2 questions. If somebody wants to add a new material to --

3 MR. HOHLWEIN: A new type of ADC?

4 COMMITTEE MEMBER JONES: They deal with it as an
5 RFI amendment?

6 MR. HOHLWEIN: Yes, they should.

7 COMMITTEE MEMBER JONES: That's easy.

8 MR. HOHLWEIN: It should be.

9 COMMITTEE MEMBER JONES: I wanted to make sure
10 they don't have to bring permits back, because that would
11 be normally done under an RFI.

12 MR. HOHLWEIN: I think that is the concern of the
13 operators is not to keep reopening the permits. But on
14 the other hand, that's what has been some of the problems
15 in the field is that people have been substituting perhaps
16 one type of ADC for another or assuming they've been
17 approved for ADC and then looking at the list of
18 pre-approved material and feeling it's to go from one to
19 another when that might not be appropriate.

20 COMMITTEE MEMBER JONES: I agree with you. That
21 might be handled as an RFI amendment?

22 MR. HOHLWEIN: Yes.

23 COMMITTEE MEMBER JONES: The one I saw in the
24 revised, the dirt issues, that was stricken. Not the dirt
25 over bad ADC, the dirt --

1 MR. HOHLWEIN: We changed the language.

2 DEPUTY DIRECTOR LEVENSON: Performance-based
3 requirement.

4 COMMITTEE MEMBER JONES: Thanks.

5 CHAIRPERSON PAPARIAN: Okay. Mike Mohajer,
6 followed by Teresa Dodge, followed by Stephen Bantillo.

7 MR. MOHAJER: Mr. Chair and the Committee
8 members, on behalf of the Los Angeles County Integrated
9 Waste Management Task Force, we submitted a letter dated
10 August 22nd. And a couple of real important issues that
11 the proposal fails to address -- first, it fails to comply
12 with the definition that is specified in the Public
13 Resources Code Section 41781.3A.

14 And the second issue is that the concern that we
15 have expressed that if the Waste Board determines that the
16 operator is not in compliance with the quantity and it
17 becomes a discretionary decision on behalf of staff to
18 make a decision on whether the facility or quantities are
19 in compliance with requirements or not, these two issues,
20 they need to be addressed. And L.A. County Department of
21 Public Works also forwarded a letter that raised the same
22 concern about this quantity issue in their letter, I
23 believe, June 17, 2003. So even though these two issues
24 have been going on, put in writing, nothing has been
25 addressed about them. And we request that prior to the

1 finalization that these two issues to be addressed.

2 Thank you.

3 CHAIRPERSON PAPARIAN: Thank you, Mr. Mohajer.

4 And Counsel, you got down that referral to double
5 check the definitions; right?

6 ACTING CHIEF COUNSEL BLEDSOE: I'll get it from
7 Mike after. I didn't quite get his full note.

8 CHAIRPERSON PAPARIAN: Teresa Dodge, followed by
9 Stephen Bantillo, followed by Don Gambelin.

10 MS. DODGE: Teresa Dodge, L.A. County Sanitation
11 District. I'd just like to state we really appreciate the
12 effort staff has devoted to understanding all the
13 stakeholder issues on this extensive package. We've been
14 working on this for over a year now. And to a large part
15 this regulation package addresses that, reflects the
16 effort staff has made.

17 We are still very concerned about the lack of
18 clarity and how the Waste Board would go about determining
19 that an operator is in violation or has abused ADC. It is
20 our understanding from talking to staff that to date there
21 has been no operator that has been determined to abuse ADC
22 where there hasn't been field verification of that abuse.
23 We would really appreciate seeing language that stated
24 simply that no operator be found in violation of ADC
25 without field verification of that abuse. We would like

1 you to consider that in the next reg package, or at the
2 very least putting it in the statement of reasons.

3 CHAIRPERSON PAPARIAN: Thank you.

4 Stephen Bantillo.

5 MR. BANTILLO: Good afternoon. Stephen Bantillo
6 with the Construction and Demolition Counsel. We're very
7 supportive of staff's recommendation here and the progress
8 they've made on these regulations. We're looking forward
9 to seeing them enacted.

10 One of the areas we do have some concern isn't
11 related to the alternative daily cover itself but it is
12 beneficial reuse section, 20685, particularly Item D that
13 refers to reporting. We would like to see reporting
14 capture those materials that are used -- the aggregates
15 that are used for road building and wet weather pads. Our
16 concern is that they get a free pass the first year that
17 they come in. And then these roads and wet weather pads
18 are built over and they have garbage go over them.
19 Basically the materials end up essentially buried and
20 never continue to serve their purpose as intended as a
21 beneficial reuse as a wet weather pad and as a road.

22 Our concern is that if it's no longer serving
23 that purpose, those materials ought to be considered
24 disposed. They're no longer considered beneficial use.

25 CHAIRPERSON PAPARIAN: Thank you. I may want to

1 hear a response from staff on a couple of these, but we'll
2 hold the response for later.

3 Donald Gambelin, followed by Chuck White,
4 followed by Sean Edgar.

5 MR. GAMBELIN: Donald Gambelin with Norcal Waste
6 Systems. For the most part we are supportive of the reg
7 package and have frankly given up on a few items. Not to
8 be a broken record any more, but nevertheless we'll forget
9 about those.

10 I would, however, like to see in 2685 "beneficial
11 reuse shall include but not be limited to the following."
12 And I do believe that alternative daily cover should be
13 mentioned in that paragraph as alternative daily cover is
14 considered to be beneficial reuse by state law. And I
15 believe it would be appropriate to be consistent with
16 state law. Thank you.

17 CHAIRPERSON PAPARIAN: Thank you.

18 Chuck White. Mr. White.

19 MR. WHITE: Chuck white, with Waste Management.
20 Like the other commentors, I have nothing but high praise
21 for the efforts staff has made to address most, if not
22 all, of our concerns. And I'm here to support these
23 regulations.

24 However, I did want to make mention of one little
25 minor technical issue that you might want to consider, and

1 that appears on page 4 on lines 8 through 10 where it
2 says, "All types of ADC still must be approved by the EA
3 in writing prior to use at solid waste landfills." We had
4 actually hoped to have a little more flexibility and not
5 have to wait for approval in writing and the regs might be
6 amended to allow once you provide notice you intend to use
7 something in accordance with these regulations that that
8 would be sufficient. However, we understand that's not
9 where it's going to go. But instead you further clarified
10 that it must be proved by the EA in writing prior to use
11 as consistent with Title 27, Chapter 3, Article 2
12 commencing with Section 21570.

13 My only concern is that the articles that
14 actually contain all the provisions for EA approval are
15 contained not only in Article 2, but also in Article 3.
16 So if you are going to refer to the procedures that the
17 staff would use for approving -- the LEA would use for
18 approving these ADCs are consistent with the regulations,
19 we simply suggest that you add the word or words in
20 Article 3 -- and Article 3 after Article 2 because then
21 you'd cover all the procedures that are spelled out in the
22 regulations for approving. And I don't think that should
23 be controversial. But it would certainly clarify all the
24 procedures that are available to you to approve
25 alternative ADC by the LEA.

1 That's all I have. We support the regulations.

2 We think everybody has done a real good job. It's been a
3 lot of hard work, and we look forward to the new regs.

4 CHAIRPERSON PAPARIAN: Thank you. Sean Edgar and
5 then Larry Sweetser.

6 MR. EDGAR: Chairman Paparian and Committee
7 members, Sean Edgar on behalf of the California Refuse
8 Removal Counsel just here to enjoy the love fest this
9 afternoon on the ADC regulations. Appreciate staff being
10 very responsive during the workshop process. The concerns
11 that our organization expressed that really have been
12 crystallized and resolved in this package. Thank you,
13 once again, for putting the level of effort that you have
14 into making what we hope to be a very successful, clear,
15 and enforceable package.

16 The only comment that we have in reviewing the
17 final language that's before you, some of our members by
18 way of background operate approximately 14 landfills.
19 Owners or operators of those 14 facilities are landfill
20 operators that looked at this package, felt some of the
21 provisions that are expressed on page 2 in lines 21
22 through 25 relating to the waste materials used as ADC
23 that already meet the grain size specification need not be
24 processed if the EA determines that the material as
25 received is adequate to perform.

1 Our operators had a little bit of concern about
2 that. That was affectionately referred to as the curbside
3 exemption over the last several months. There was some
4 belief that perhaps some of the curbside material could be
5 taken in without a need to process. Our operators asked
6 us to express to you that we believe there should be
7 processing prior to placement of all materials, just that
8 their conventional wisdom is the stuff does not come out
9 of a truck in a uniform size requirement that would be 12
10 inches or 6 inches or be able to meet that magic size
11 requirement without any level of processing.

12 However, this is one comment to share with you.
13 We're fully in support as the package was written. Thanks
14 for your effort once again. And if we can have more group
15 hugs and love fests like this, I'll look forward to it on
16 future regulatory packages.

17 CHAIRPERSON PAPARIAN: Thank you.

18 Larry Sweetser.

19 MR. SWEETSER: I'll close out the love fest.
20 This is Larry Sweetser on behalf of the Rural Counties
21 Environmental Services JPA. And just wanted to thank
22 staff again for recognizing the needs of the rural
23 counties and eliminating the need for mandatory scales.
24 That really helps out in our operations. Thank you very
25 much.

1 CHAIRPERSON PAPARIAN: Thank you.

2 I think Board members may have some comments.

3 Let me ask staff, from what you heard, do you feel like
4 you need any direction on any of the items that have just
5 been brought up?

6 MR. HOHLWEIN: No, I don't. Howard?

7 CHAIRPERSON PAPARIAN: I was asking if you feel
8 you need any direction on any of the items that have been
9 brought up by any of the speakers.

10 MR. HOHLWEIN: We can make an adjustment on the
11 language regarding the addition of the Article 2 with
12 Article 3. That should be very minimum. Other than that,
13 I don't see anything.

14 DEPUTY DIRECTOR LEVENSON: I only see three other
15 issues that were raised by folks today. And a couple of
16 those are related to DRS capturing the materials used for
17 wet weather pads and road base as not really an ADC issue.
18 Something that's just --

19 COMMITTEE MEMBER JONES: Beneficial reuse.

20 DEPUTY DIRECTOR LEVENSON: Beneficial reuse. So
21 we need to talk internally about the beneficial reuse
22 definition. But we can certainly proceed as is, unless
23 there's any specifics you want to change.

24 CHAIRPERSON PAPARIAN: Mr. Edgar had something
25 about processing prior to placement.

1 MR. HOHLWEIN: Well, I think what he was saying
2 is because it comes off the truck in a general uniform
3 size does not mean it's always going to meet the
4 specifications and they would prefer to go back to the
5 language which was all materials be pre-processed. And I
6 think some of the work we've done here is that quite a few
7 people feel not everything needed to be pre-processed.
8 We're hoping that the Board would allow them to not do
9 that so they can save some money on occasion and not
10 always have to process things. So we'll leave that up to
11 you.

12 CHAIRPERSON PAPARIAN: Okay.

13 DEPUTY DIRECTOR LEVENSON: The other issue that
14 has been raised is the lack of -- purported lack of
15 clarity and enforcement related to, you know, if the Board
16 staff makes a finding about a violation and how that
17 relates to the disposal reporting system -- we have
18 explained this a number of times. We do include it in the
19 FSOR, the final statement of reasons, if you so direct.
20 And we'd be happy to explain it there in writing so that
21 becomes a part of the record. I don't know if that would
22 be satisfactory or not.

23 CHAIRPERSON PAPARIAN: Other comments?

24 Ms. Peace.

25 COMMITTEE MEMBER PEACE: I guess just to what

1 Chuck White was saying about all types of ADC must be
2 approved by the EA. And he said something about including
3 that in the Article 3. Michael, do you see --

4 ACTING CHIEF COUNSEL BLEDSOE: Well, either
5 Howard or Reinhard indicated he thought that change would
6 be easy to make.

7 COMMITTEE MEMBER PEACE: That should be made.

8 ACTING CHIEF COUNSEL BLEDSOE: I haven't looked
9 at it specifically, but unless Elliot jumps up and down,
10 I'm sure there's no problem with it. And he's sitting
11 calmly.

12 MR. DE BIE: Mark De Bie with Permitting and
13 Inspection. Our intent to have a reference in there was
14 to be clear what process should be utilized by the EA in
15 making their determination of approval. So they're not
16 grappling with, "Oh, do I just write a letter or
17 something?" So we're pointing over to the existing
18 process of what was discussed before basically will be an
19 RFI process. So we'll work with legal to make sure
20 everyone's clear on that's the process we are pointing at.

21 CHAIRPERSON PAPARIAN: Mr. Jones.

22 COMMITTEE MEMBER JONES: Thanks, Mr. Paparian.

23 I think, you know, I have no problem with all the
24 resolutions that you come up with, I think, in the reasons
25 statement that a discussion about -- I understand the

1 problem that the cities face when somebody abuses ADC
2 placement and starts putting too much on, that that
3 material gets put back on them as disposal instead of ADC,
4 which they thought it was going to go as.

5 I think, you know, working with Mr. Schiavo's
6 folks, we need to make sure that if LEAs start getting an
7 indication people are putting too much on, we need to get
8 on it right away so people don't get caught blindsided.
9 But there's no way to do anything else that -- short of
10 not allowing them. So it's a catch- 22. So I think maybe
11 in the statements -- what the industry is afraid of is
12 that somebody is going to make a mathematical equation
13 based on what they think the volume needed to be. And we
14 were very clear in this putting these regs together that's
15 not the case. I hope that's true. Because there's no way
16 that you -- it's impossible to ever come up with that just
17 because of the terrain that's being covered and, you know,
18 the types of material and the weight. So I think we have
19 that handled.

20 But I do want to talk about this issue of
21 beneficial reuse when it comes to roads and winter pads.
22 There's not normally an excessive amount of material put
23 down for winter pads or more roads. It doesn't make sense
24 to put in a whole lot more than what you need to get a
25 roadway put across a landfill so you can get trucks to an

1 area that are going to be able to dump all winter long,
2 all season long. And if that material -- if there's some
3 desire to scrape that material back up, it's not going to
4 work. Because normally during the winter season you have
5 to add material to a winter pad in some cases just because
6 of the severity of the weather and the weight of the
7 trucks and things like that. So the beneficial reuse
8 actually goes on after garbage gets in that place because
9 now you've got an area that's been further enhanced with
10 stabilization.

11 So it's never going to be an issue of a waste of
12 material. And you know, actually, I think it almost goes
13 the opposite, that it actually helps continue to stabilize
14 over time. So I just don't see it as an issue. I
15 understand the point, but not in the real day to day world
16 of running landfills do you put a whole lot more down than
17 you need.

18 CHAIRPERSON PAPARIAN: Your point, though, was
19 that regardless of whether it's an issue or not, it's not
20 relevant to these regulations; right?

21 COMMITTEE MEMBER JONES: Right.

22 CHAIRPERSON PAPARIAN: I mean, I think it's an
23 intriguing question. But you know, I think we all
24 understand it's not part of these regulations.

25 Anything else, members?

1 I think I'm sensing we're all comfortable with
2 you going forward as you outlined and going on for another
3 15 days and hopefully coming back in October with
4 something that we can adopt.

5 MR. HOHLWEIN: Sounds very good. Thank you very
6 much.

7 DEPUTY DIRECTOR LEVENSON: Now we're on to Item
8 28, consideration of the adoption of a negative
9 declaration, State Clearinghouse Number 2003082024, and
10 proposed regulations for the construction and demolition
11 waste and inert debris disposal, Phase II, tiered
12 regulations.

13 And before Mark De Bie goes into his
14 presentation, I just want to ask that we overturn Larry
15 Sweetser's conclusion that the love fest is over, and we
16 continue the love fest for this item as well.

17 (Thereupon an overhead presentation was
18 presented as follows.)

19 MR. DE BIE: Thank you, Howard. Mark De Bie with
20 Permitting and Inspection. It's my honor to make this
21 presentation today. We're getting by without the valid
22 assistance -- great assistance from Allison Spreadborough.
23 She's in Ireland enjoying her holiday. I think she timed
24 it quite well.

25 CHAIRPERSON PAPARIAN: He's probably listening on

1 the Internet.

2 MR. DE BIE: We threatened to have her on cell
3 phone in case something came up. We didn't.

4 So I will attempt to go through what has occurred
5 since the last time this item was heard in terms of the
6 15-day comment period and the comments that we've received
7 and go from there. Maybe just to point out -- well, it's
8 in the presentation so I'll get started.

9 --oOo--

10 MR. DE BIE: A little bit of background. On
11 8/4/2003, the Committee heard this item. And at that time
12 there were basically two remaining issues that needed some
13 resolution. And those were dealing with the term
14 "disposal" in the definition of inert debris engineered
15 fill operation as well as the requirement to have weight
16 records that are based on scales at the operations and
17 facilities.

18 And so staff worked with stakeholders to come up
19 with some various alternatives relative to these two main
20 issues and noticed the regulations with multiple
21 alternatives included, in an effort to gain comment on
22 them and facilitate the movement of this item forward
23 because, as you can see in the last set of bullets there,
24 that because of statutory requirements we have -- time is
25 running out. Calculating that Office of Administrative

1 Law needs their 30 days, which is equivalent to six weeks,
2 but there's probably some holidays in there that need to
3 be accounted for towards the end of the year and then time
4 for Board staff to take whatever version is eventually
5 adopted by the Board and complete the rule making package
6 for submittal, pretty much obligates the Board to
7 hopefully make a decision this month so we can meet the
8 time frame of submittal to the Secretary of State by the
9 first of 2004.

10 --o0o--

11 MR. DE BIE: Today the Committee is faced with a
12 couple of ways of moving forward. Again, there were
13 various issues and alternatives. So certainly one of the
14 options is for this Committee to choose an alternative for
15 each issue and accept that version of the regulation as
16 the one to be submitted to the Board for approval.
17 Certainly the Committee could choose to make that decision
18 for some of the issues but not all of them and then defer
19 decision to the Board on the remaining issues. Or
20 certainly the Committee could defer further discussion to
21 the Board to make the final decision on that.

22 --o0o--

23 MR. DE BIE: Relative to issue one, again,
24 whether or not to use the term "disposal" in inert debris
25 engineered fill operation, the regulations were noticed

1 with three alternatives. The first alternative retained
2 the term "disposal." The second alternative deleted the
3 term "disposal." And then the third alternative deleted
4 the term "disposal," but added to that definition the
5 phrase "inert debris placed in an inert debris engineered
6 fill operation is not counted as diversion or disposal for
7 a given jurisdiction." So those were the three
8 alternatives that were noticed for Issue 1.

9 --o0o--

10 MR. DE BIE: So what follows in the next series
11 of slides are the various comments that were received
12 relative to this particular issue. And there are eight
13 slides, all 24-point font. So certainly we can go through
14 each one. I did provide copies of this PowerPoint
15 presentation to the Committee.

16 CHAIRPERSON PAPARIAN: I think we all have them.

17 MR. DE BIE: What I can propose is I could just
18 sort of hit the high points of the essence of these
19 comments. If you see a comment that you would like a
20 little more explanation on, we could stop and discuss
21 those further. But you have the staff summary in hand.

22 So in these first couple slides relative to the
23 comments, there were comments relative to the highest and
24 best use versus disposal and which way the Board would
25 like to move these materials relative to this strategic

1 goal. There were comments relative to the fee and the
2 applicability on this kind of activity. And there were
3 comments relative to the effect of including disposal or
4 not including disposal on recycling activities.

5 Basically, the sense was that anything that would
6 be facilitating additional disposal or continued disposal
7 in these sites would have some negative effect on
8 recycling and diversion.

9 --o0o--

10 MR. DE BIE: This slide continues sort of that
11 same theme of comments. It also brings up an issue about
12 consistency with the countywide citing element in the
13 integrated waste management plans and how these sites are
14 viewed in those documents.

15 Again, if you see any issue or comment that you
16 would like staff to spend more time on, let me know.

17 --o0o--

18 MR. DE BIE: The next set of slides talked about
19 reclamation versus disposal indicating that reclamation
20 activities have a high level of oversight already. And
21 then there were a series of comments that talked about
22 effect of the use of disposal or not use of disposal on
23 jurisdictions and their diversion reporting, basically
24 that some of these sites have not been required to report
25 this material as disposed. And they may, with this

1 change, need to do that, especially if they were found to
2 be in the Type A disposal tier, which is a registration
3 tier. Again, they would not if they were in the
4 notification tier.

5 --o0o--

6 MR. DE BIE: There were some comments relative to
7 the Board's authority and the need to use the term
8 disposal or to emphasize the Board's authority over these
9 kinds of operation. Several comments about the
10 consistency or inconsistency with 2308.

11 --o0o--

12 MR. DE BIE: There were comments relative to,
13 again, the impacts of placing Type A disposal facilities
14 in a registration tier and the potential impact on
15 jurisdictions relative to diversion.

16 --o0o--

17 MR. DE BIE: And then general comments about,
18 again, jurisdictions' 939 goals and conformance with
19 those.

20 --o0o--

21 MR. DE BIE: Based on all the comments received,
22 staff is still prepared to go ahead and recommend
23 Alternative 1, which is retaining the word "disposal," but
24 we would like to have the Committee consider including
25 some alternative language in the resolution. And

1 hopefully you have a copy of that revised resolution that
2 includes on additional "whereas." It should show up in
3 your revised resolution as underlined and bracketed. In
4 my copy it's on the top of page 2 of the resolution. It
5 begins on page 1 -- I'm sorry -- at the bottom and then
6 continues to page 2.

7 We feel that this language in the resolution does
8 address many of the comments relative to the need for
9 clarity on how jurisdictions will be dealt with relative
10 to disposal reporting about materials that were not
11 regulated but now are regulated and effects on base years
12 and that sort of thing. We worked hand in hand with our
13 colleagues in DRS, Lorraine Van Kekerix and Pat Schiavo,
14 as well as Legal Office in developing this language.

15 And I'm not going to do it justice by trying to
16 explain it. But if you do have questions, either Lorraine
17 or Pat or perhaps Legal Office, Elliot, could tell you
18 specifically what its intent is.

19 So we can stop there or move on to the next set
20 of issues and go through those too.

21 DEPUTY DIRECTOR LEVENSON: Let me just add one
22 comment on that. Regardless of which alternative you
23 choose on issue one about the term "disposal," the
24 language in the resolution we believe should be adopted.
25 We recommend that you adopt it regardless of your choice

1 on the term. There's not sufficient time for us to
2 include this in the regulations themselves, hence our
3 inclusion of it as a phrase in the resolution so we can
4 clarify that issue and address it.

5 COMMITTEE MEMBER PEACE: One question regarding
6 the resolution where you put in the "whereas" bracket --
7 "whereas" you're talking about. "Whereas, the intent of
8 the Board in adopting these regulations that" -- do we
9 need to put in "consistent with the provisions of AB
10 2308"? Does that really need to be in there? Can't we
11 just put, "Whereas it's the intent of the Board in
12 adopting these regulations that inert debris engineered
13 fills are not subject to disposal reporting requirements"?

14 DEPUTY DIRECTOR LEVENSON: You're referring to
15 the first. There are actually two whereases. You're
16 referring to first.

17 COMMITTEE MEMBER PEACE: The first one that is
18 bracketed and underlined on the first -- the bottom of the
19 first page.

20 MR. DE BIE: My recollection about the reference
21 to AB 2308 again was to be responsive to some of the
22 comments that we received from stakeholders indicating
23 that -- you know, needing clarity that these are the
24 regulations that basically intend to implement the
25 requirements of 2308 and that the Board is finding these

1 regs are consistent with those requirements.

2 DEPUTY DIRECTOR LEVENSON: I would also add that
3 this is almost taken verbatim what's in the regulations.
4 And I don't believe this particular whereas is the subject
5 of any controversy as to its interpretation or intent.
6 It's the use of the term "disposal" elsewhere in that part
7 of the regulations.

8 COMMITTEE MEMBER PEACE: In terms of the word
9 "disposal" the stakeholders keep referring to this AB
10 2308. And to me, AB 2308 just said that we would not call
11 it disposal or diversion until we adopt regulations. I
12 don't know if there's any reason to refer to it once these
13 regulations are adopted. But if you think it needs to be
14 there --

15 CHAIRPERSON PAPARIAN: If it's okay, I think
16 probably there are several issues, maybe including this
17 one, which after we hear all of them witnesses we can come
18 back to explore a little further.

19 Mr. Jones, is it all right if we move on to the
20 second issue?

21 COMMITTEE MEMBER JONES: Sure.

22 CHAIRPERSON PAPARIAN: Why don't you go on with
23 the second issue.

24 --o0o--

25 MR. DE BIE: Okay. Moving on to the second

1 issue, which dealt with requiring weight records be based
2 on scales at the inert debris engineered fill operation.
3 We included three alternatives in the regulations. One
4 that required that -- very similar to Phase 1 that the
5 sites be required to report weight records that were based
6 on scales either on site or off site. Alternative 2
7 included various exceptions to the overall rule, and I
8 have a second slide that kind of highlights those
9 exceptions. And then Alternative 3 deletes the
10 requirements for scales, but does retain the requirements
11 that are in the regs speaking to maintaining weight
12 records but allowing flexibility to use conversion factors
13 in reporting those.

14 --o0o--

15 MR. DE BIE: This slide highlights the exceptions
16 that are in Alternative 2. Basically staff constructed
17 this alternative to include an overall delay of one year
18 to implement scales. This was in response to some of the
19 stakeholder testimony that it would take time to put in
20 scales. We included an exception for rural cities and
21 counties not to need to put in scales but could again
22 report tonnages based on converse factors only.

23 And then again in response to testimony received
24 about these engineered fill operations that may be very
25 close to completion within a year or two or three and the

1 need to put in scales and then just end up closing in a
2 year or two, it was indicated it would be a bit much for
3 certain operators to absorb. So there is an exception to
4 any site that is scheduled to or is reported in the
5 operation plan as being a plant to be closed within three
6 years of the effective dated of the regs.

7 COMMITTEE MEMBER PEACE: Excuse me. Was there
8 any thought to the fact -- it says, "An operation will
9 cease activities within three years." What if three years
10 come up and they say, "Whoops, we have a couple more years
11 to go," has thought been put into what happens then?

12 MR. DE BIE: Yes. Some thought has been put into
13 it because we did receive some comments about that. So I
14 could jump ahead to that one.

15 Basically the operator would in their
16 application -- the paperwork submitted to the LEA relative
17 to the site for the notification would include an
18 operations plan. And in that they would describe their
19 intent to finish operations, time certain, date certain,
20 year certain. If it was found that they were operating
21 inconsistent with that plan, that would be a violation.
22 The LEA could issue an order and require them to come back
23 into compliance with that, which may lead them to closing
24 on the date that they indicated.

25 One could argue that submitting a plan that might

1 not have been true, you know, there might be a perjury
2 issue there that could be pursued. But you have to look
3 at intent and whether that could be proven.

4 And basically if they got up to the very end of
5 that three years and said, "Oops, we got another
6 two years," I think the LEA would need to look at that in
7 the history of the site and say basically, "You're a site
8 that's operating for five years," and require them to put
9 in scales, even though they only have two years to go. So
10 there would be some impact to this operation to sort of,
11 if I will, play that game.

12 Now, certainly it might not account for a
13 facility that honestly reports that they intend to close
14 in three years, miscalculated, loss of contract, whatever,
15 and end up, you know, running longer. I think whenever it
16 becomes obvious to both the LEA and the operator that, you
17 know, things have changed, they need to sit down and
18 re-evaluate that site and make a determination earlier
19 than later, not just have it run to the end of the three
20 years and then pick it up.

21 So I think it will be obvious that as tonnages
22 drop off or as, you know, estimations on where they would
23 be in their fill at certain times, when those aren't met,
24 it would become obvious to the LEA to sit down with the
25 operator and figure out if they need to adjust that plan.

1 And that might include including scales at that time.

2 CHAIRPERSON PAPARIAN: Mr. Jones.

3 COMMITTEE MEMBER JONES: Thanks, Mr. Paparian.

4 Just a question following up on that.

5 The issue of scales is for all of these different
6 types of facilities, C&D -- you know, C&D facilities as
7 well as fill facilities. The only thing I caution you
8 about, you know, some of the things about somebody not
9 fulfilling what they had expected as far as an operations
10 plan that was set with an LEA is if these facilities were
11 under SMORA and they're doing a mine reclamation project
12 and the material disappears, it's not -- you know, it's
13 being diverted somewhere else, I mean they're not only --
14 they've got bigger problems than us. I mean, they're
15 going to be looking for material pretty hard to fulfill
16 their land reclamation projects in a lot of cases,
17 especially in parts of -- you know, especially the ones
18 who are taking the inert A materials. So, you know, it
19 may be problematic.

20 We may want to sort of think about if we go with
21 that exception or with the exemption, if we do go into the
22 exceptions, that these ones that run up against that three
23 year, you know, maybe they just need to not so much have a
24 scale but be able to have the ability to have those loads
25 come in weighed if that's what we decide. Because you may

1 be looking at a year. And you're going to go spend 70
2 grand to fulfill this requirement, that's not going to
3 make a whole lot of sense, you know. So I just caution us
4 to think a little bit about that because SMORA is a lot
5 more overriding than what we're doing, especially on the
6 engineered fills.

7 CHAIRPERSON PAPARIAN: You can go on. You've got
8 quite a few of the slides of the comments, and I think
9 we've had a chance to look at those up here. We do have
10 quite a few witnesses who, I think, will reemphasize a lot
11 of the key points.

12 MR. DE BIE: I'll skip through those. Just to
13 clarify something that Mr. Jones indicated, Issue 2
14 specifically only deals with inert engineered fill. We
15 also -- and I'll show those at the end -- have Issue 3 and
16 4 which would be the question of adding on scales to Type
17 A disposal or C&D. So the Committee can, you know, rule
18 on those separately if they wish.

19 --o0o--

20 MR. DE BIE: So skipping through then, these
21 indicate the various comments, some pro, some con. Mostly
22 con in not having a scale requirement. The staff is
23 recommending on Issue 2, Alternative 2, which includes the
24 various exceptions and delays in implementation.

25 --o0o--

1 MR. DE BIE: And then real quickly on Issue 3 and
2 4 are very similar to Issue 2 but are applied to inert
3 debris Type A disposal or CDI waste disposal facilities.

4 --o0o--

5 MR. DE BIE: And staff is recommending that
6 whatever the Board or Committee decides relative to Issue
7 2 and they be consistent and apply that to 3 and 4.

8 CHAIRPERSON PAPARIAN: Okay. Thank you.

9 Mr. Jones.

10 COMMITTEE MEMBER JONES: Can I ask a question on
11 that recommendation?

12 If the first issues are just about engineered
13 fills, they're engineered fills because they're going to
14 be a positive productive end use at the end of the project
15 in most cases, especially -- it's going to be buildings.
16 It's going to be things like that. That would seem to me
17 to be a very different issue than a C&D site that's taking
18 in material and it's final end result is going to be as
19 open space. And yet we're saying whatever we do with the
20 fill, we should do with the C&D site. Is that just -- I
21 mean, that doesn't seem normal to me.

22 MR. DE BIE: Staff's recommendation is that the
23 Committee consider being consistent with whatever decision
24 they make on inert debris engineered fill, be consistent
25 with the other types of facilities as defined. And

1 basically the reasons why we are putting that
2 recommendation forward are the main reasons why this
3 requirement is in this regulation package. And one is to
4 be consistent with what the Board addressed in the Phase
5 I. So carry that over and allow the Board to debate the
6 decision about scales in the context of Phase II. So that
7 was one reason why it was included originally.

8 And then 2 is sort of the overarching reason for
9 having scales relative to these kinds of sites, and that
10 was the sense of the Board a while ago -- and I might even
11 say a previous Board -- of trying to get good data on
12 these materials and where they're going. So certainly
13 having scales is the best way to, you know, collect that
14 data and get that data. And I think that issue could be
15 applied to the inert debris as well as the Type A
16 disposal, as well as CDI.

17 You know, realizing that currently landfill
18 requirements -- MSW landfill requirements do not require
19 scales. They only require reporting tonnages and allow
20 them to use a conversion factor. And the rate indicates
21 they're allowing a 10 percent on that record in terms of
22 accuracy. But we did hear the Board relative to Phase 1
23 in terms of scales are a good idea. We incorporated that
24 in this reg package, allowing the Board to either carry
25 that on or not.

1 I might add a footnote that all these issues that
2 were added into Phase 1 are still being debated and
3 discussed and workshops are scheduled for that including
4 the scale issues. So staff is aware that there isn't
5 necessarily a final answer out there relative to the
6 scales and applicability of scales to the whole suite of
7 facilities out there, not just these Phase II facilities.
8 But they're also trying to allow the Committee and the
9 Board an opportunity to place a requirement in there
10 knowing that, you know, this reg package is happening
11 prior to any final resolution about the suite of issues
12 that the Board has identified.

13 CHAIRPERSON PAPARIAN: Okay. Speakers. First
14 speaker I have is Cyrus Sanai, followed by Mike Mohajer,
15 followed by Tom Davis.

16 MR. SANAI: Mr. Chairman, members of the
17 Committee, my name is Cyrus Sanai. I'm from the law firm
18 of Jeffer, Mangles, Butler, and Marmaro. I'm here
19 representing vulcan materials. However, I also submitted
20 letters on behalf of two other of our clients in this
21 process, or members of my firm, to be more specific.

22 I'd just like to briefly go over the issues that
23 are facing the Board at this moment. First of all with
24 respect to the issue of disposal, this appears -- it's a
25 fair arcane legalistic issue, but one we feel does have a

1 strong potential to come back and haunt both the operators
2 of inert fill sites and this particular Board. Because of
3 the fact there's still some tension between various
4 stakeholders as to the proper role of inert fill sites and
5 the treatment they are to receive under AB 2308 as not
6 being deemed subject to the fee and giving a fairly light
7 level of regulation, that's consistent with the
8 essentially non-existent risk to public health and safety
9 that is posed by inert fill site that meets the definition
10 and follows all the requirements set forth by this Board.

11 Our concern is primarily that this issue is going
12 to come back and rear its head at a later time based on
13 efforts to either reimpose the fee, which would be one
14 option, or alter the position of these particular kinds of
15 sites. And these sites -- the Legislature, after
16 considering the various issues involving -- presented by
17 the various stakeholders passed AB 2308 because it
18 recognized that engineered fill sites not only present a
19 very minimal risk of hazard to the public health and
20 safety, but in the case of mining sites, such as those
21 operated by this firm's clients, are to be encouraged to
22 get a more rapid reclamation of these particular sites so
23 they can be put into a productive use.

24 And we see no down side, and we've yet to see any
25 articulation of any down side to removing the requirement

1 for disposal. The bulk of the argument we saw placed were
2 basically from our position rear-guard efforts to alter
3 what is essentially already a fait accompli in terms of a
4 general aspect of the regulations. Whatever decision this
5 Board makes now, it's clear that engineered fill sites are
6 going to fall into this lower level -- into this least
7 notified tier and will be able to operate in accordance
8 with AB 2308's intentions. We think that taking the third
9 alternative will assist in cementing that status, that is
10 essentially what the fight is over from our position.

11 Moving on to the question of scales, our client's
12 concern with scales is that particularly given the
13 particular recommendation made by staff, there really
14 isn't very much point for our clients to have to incur the
15 cost of putting these scales in. The two reasons that
16 have been brought forward for requesting scales, the first
17 is consistency with the Phase 1 treatment of recycling
18 centers. However, an inert fill site is not a recycling
19 center. Stuff doesn't go in and out, in and out. It just
20 goes in. And for purposes of the determining compliance
21 and for purposes of determining the nature of an
22 engineered fill site, the issue isn't really the weight of
23 the stuff coming in. It's actually its volume and
24 relative compaction over time. Those are the issues that
25 you end up looking at. And highly accurate information

1 regarding scales, while certainly of theoretical and
2 statistical interest, we don't think adds anything to the
3 level of knowledge necessary to regulate these particular
4 kinds of sites. We think that's particularly true, given
5 the option favored by the staff.

6 If the desire for the Board is to have the most
7 accurate information possible, the logical choice is to
8 have scales everywhere for all sites. But that clearly
9 isn't the situation. You're burdening certain sites but
10 not other sites, which means that you're going to get
11 information which is inherently subject to the same kind
12 of inaccuracies that the Board is -- that apparently
13 brought the Board to consider the imposition of scales in
14 the first place. The kind of errors brought in by
15 conversion factors, the lessening in accuracy is going to
16 be the case under the present proposal advocated by the
17 staff.

18 So the result from our point of view is that
19 certain operators are going to have to bare the expense of
20 putting in scales. But the level of information regarding
21 the overall disposal this kind of material into the
22 various sites in California is not inherently going to be
23 any more accurate. It will be accurate to certain sites,
24 but how does that assist the Board in terms of its
25 objective of notifying these at the notification tier

1 level? We simply don't see a rational connection between
2 the proposal as given and the objectives of the proposal
3 as they've been annunciated by staff.

4 So these are essentially my comments. And I
5 would just again like to thank the Board and particularly
6 the staff and in particular Allison Spreadborough for the
7 excellent job she has done in terms of bringing these
8 regulations along the way. It's been, I think, a model
9 for the way in which the regulatory process and
10 regulations should be created in California. And it would
11 be a great thing if it was copied across the California
12 state government. Thank you very much.

13 CHAIRPERSON PAPARIAN: Thank you.

14 Mike Mohajer.

15 MR. MOHAJER: Mr. Chair, for the record again my
16 name is Mike Mohajer of Los Angeles County Integrated
17 Waste Management Task Force. I want to reemphasize what
18 the previous speaker mentioned. Maybe I should have gone
19 to school as a lawyer rather than being an engineer.

20 We submitted comments on behalf of the Task Force
21 on, I believe, August the 28th. And I had no access to
22 the staff report. But clearly we have difficulty when
23 we're talking about inert debris engineered fill operation
24 using the word deposited and fill rather than disposal and
25 looking at it as a disposal facility from the standpoint

1 that Board members change. Maybe after October 7th we're
2 going to have new Board members. I don't know. The
3 philosophy of the language and the word "disposal" may
4 change too, so from that standpoint and for really for
5 what actually it is.

6 I remember when I was working for a private
7 sector, one of my jobs was to design some concrete pipe
8 culvert to go under the Interstate 5. And it had 200 feet
9 of fill over it. And it was fill. We didn't call it
10 disposal. We have buildings, many of them have I been
11 involved in that are built on fill, 50 feet, 60 feet. It
12 wasn't disposal. So I cannot understand for what reason
13 engineering-wise and technical-wise that inert debris fill
14 operation should be called disposal. And I didn't hear
15 any response from the staff about why they are pursuing
16 the word "disposal." So that's one of the concerns that
17 at least what our Task Force adopted on August 21st.

18 Other issue that they adopted was in reference to
19 the scale at the small facilities. They did not define
20 what they mean as a "small facility." I'm talking about
21 my own Task Force, nor do I have a definition for that.
22 So I'm just passing the word from that aspect of it.

23 And the last item that I looked at it today -- it
24 goes under page 9 on section 17388.2(A)(1).

25 COMMITTEE MEMBER JONES: Say that again.

1 CHAIRPERSON PAPARIAN: Mr. Mohajer, we're trying
2 to catch up to you. Say the page number and the reference
3 number again.

4 MR. MOHAJER: Page 9.

5 COMMITTEE MEMBER JONES: Okay.

6 MR. MOHAJER: Section 137388.2(A)(1). These are
7 under "excluded activities." It reads, "Any use, example,
8 grading of gravel, rock, soil, sand and similar materials
9 whether proposed or not" -- this is using those materials
10 -- "are excluded." But it says, "that has never been used
11 in connection with any structure, road, parking lot, or
12 similar use." So all I'd like to know if you have gravel,
13 what was used before or not, who cares? That's inert
14 material. That's what God has made it. It's gravel. So
15 why are we getting so picky about this? Is that what the
16 intent of these regulations are? Are we going to protect
17 public health and safety other than -- to me, we are
18 creating a heck of a lot more bureaucracy and wasting the
19 taxpayers money, and achieving nothing, and creating more
20 confusion jumping from one side of the scale to the other
21 side of the scale.

22 So having said that, thank you very much.

23 CHAIRPERSON PAPARIAN: Thank you.

24 Tom Davis, followed by Stephen Bantillo, followed
25 by Ken Barker.

1 MR. DAVIS: Good afternoon, Chairman and
2 Committee members. My name is Tom Davis, Justice and
3 Associates. We're an environmental consulting firm that
4 represents many construction material mining companies and
5 related industries.

6 First of all, I want to thank again the Board's
7 patience and the staff's patience and their dedication in
8 pursuing fair, reasonable, and practical regulations.

9 The two issues at hand, I will briefly comment on
10 both of them. First of all, I believe that the Board
11 staff and the stakeholders have worked hard to develop a
12 special category of activity to recognize a project that
13 utilizes cleanest of clean inert material for the
14 creation, essentially, of the foundation for a future
15 productive use. And those we have known now to be
16 referred to as inert debris engineered fill operations.

17 Calling this well-calculated, designed and
18 deliberate fill operation as disposal in my opinion is
19 misleading and detrimental to the theme and the overall
20 objective given to the special activity. Even though the
21 Board, the staff, and the operators of these type of
22 operations appreciate this special category for these
23 activities, our local lead agencies in the communities
24 that we operate in may not. And so we need to make sure
25 that we choose our words closely in these final

1 regulations.

2 And consequently, we would be supportive of
3 either Alternative 2 or Alternative 3 that would replace
4 the words "dispose" and "disposal" with other choice words
5 that better represent what is taking place in the creation
6 of a foundation of future productive uses on these sites.

7 Relative to scale requirements, you've heard me
8 discuss the reasons why we do not believe scales are
9 necessary. So I will not go into detail, but to summarize
10 those points. First of all, there is a state minimum
11 standard that is made prior to these regulations by
12 reference that calls for a level of accuracy of 10
13 percent. Having scales does not warrant the use of -- or
14 this accuracy level -- excuse me -- does not warrant the
15 use of scales.

16 The second point, the initial and ongoing cost of
17 using scales are not justified. The use of scales in many
18 cases are not practical. Next, the use of scales, in our
19 opinion, is not the preferred environmental alternative.

20 And with all respect to the staff who gave two
21 reasons why scales should be required, we believe that no
22 good reason has been offered. In particular, referring to
23 consistency with Phase 1, my recollection, the Phase 1
24 regulations, the need of scales were because of the tier
25 assignments were based on tonnage. Okay. And I don't

1 remember those tonnages. But let's say it's 500. If you
2 had 499 tons per day on average, you're in one tier. And
3 if you have 501 tons per day on average -- you know, that
4 requires a lot of accuracy, whereas I can see scales are
5 necessary. But when we're trying to meet a 10 percent
6 accuracy for an annual reporting requirement, it's
7 absolutely not justified.

8 My last point has to do with -- and we do
9 appreciate the staff coming up with the alternative that
10 allows for certain time constraints that can be met. And
11 whether they are in the rural city or rural county, we
12 appreciate that. However, that doesn't satisfy all of our
13 concerns. I would like to offer two quick examples.
14 Recently we were working for a client in siting an
15 industrial site in the greater Los Angeles area. We came
16 upon two industrial sites, zoned industrial in the
17 representative cities. One was 10 acres and one was 56
18 acres. We were attracted to both of them because they
19 were both a very, very good price. Well, after a little
20 research we found out that one of the reasons why both of
21 those sites in a very, very urban area were so attractive
22 in price is because neither one had utilities. These were
23 right next to freeways. It would have cost a lot of money
24 to bring in utilities. And in one particular case, the
25 one site could have been used as an inert debris

1 engineered fill operation.

2 If our client were to pursue that piece of
3 property, and for no other reason they would have to bring
4 in electricity to run a scale, they could not afford to do
5 that. It's not justified. The alternative of that would
6 be to use a generator to generate electricity to run a
7 scale. That doesn't make any sense. Or the alternative
8 to that would be to have these trucks scaled on some
9 public scale that most likely would be out of the way,
10 increased truck mileage, increased truck emissions
11 relative to that mileage and congestion. It all makes no
12 sense to us. So I would -- having said that, we are in
13 support of Alternative 3 for Issue 2. Thank you.

14 CHAIRPERSON PAPARIAN: Thank you.

15 Steve Bantillo, followed by Ken Barker, followed
16 by Scott Smithline.

17 MR. BANTILLO: Good afternoon again. I'd like to
18 bring us back to the love fest, if I can.

19 CHAIRPERSON PAPARIAN: If you could identify
20 yourself again.

21 MR. BANTILLO: Stephen Bantillo with the
22 Construction and Demolition Council.

23 We do support staff's recommendations for Issue
24 1, Alternative 1, as well as Issue 2, Alternative 2, to
25 the extent those exceptions are applied when no reasonable

1 alternative exists. I think this is an issue of
2 perspective and magnitude. You heard from a previous
3 speaker who expressed concerns about filling up the
4 various holes for a specific use in the future to benefit
5 us all. I think it's something a little bit different
6 than that when you look at it from a solid waste
7 management perspective.

8 The concern of the Construction and Demolition
9 Council is that it's imperative to keep the words
10 "disposed" and "disposal" in the regulatory package.
11 These materials need to be accounted for and not disappear
12 into a black hole literally. If these same materials were
13 buried in a landfill coming in through other various
14 loads, it would count against the jurisdiction of origin
15 as disposal. It's also an issue of equity. All the
16 materials that are buried in the fill should count as
17 disposal.

18 And on the order of magnitude, the magnitude
19 issue I brought up, the USGS identifies over 1,000 mine
20 sites in California. Now, 2308 is largely in reference to
21 some specific sites down in Southern California. But when
22 you start looking at over 1,000 sites across the state,
23 that raises some serious red flags for us that those sites
24 might then be developed and filled as engineered fill.

25 And on the market fronts, there clearly is a need

1 for using these materials in construction projects. These
2 materials are less costly for construction projects but
3 are rarely used primarily because the materials are
4 unavailable to the contractors due to the incentives for
5 burial.

6 Keeping the words "disposed" and "disposal" will
7 enhance recycling by removing barriers for these materials
8 entering the economic mainstream. The State Legislature
9 recognized the expertise and authority of the Waste Board
10 and through AB 2308 provided an opportunity to the set the
11 record straight. The Construction and Demolition Council
12 strongly support staff's because we believe its
13 implementation will assist the Board in achieving its
14 mission and goals of moving materials into the economic
15 mainstream with highest and best use in mind, as opposed
16 to disposal. Thank you.

17 CHAIRPERSON PAPARIAN: Mr. Jones.

18 COMMITTEE MEMBER JONES: You're in San Jose;
19 right? You work for the city?

20 MR. BANTILLO: Correct.

21 COMMITTEE MEMBER JONES: You've got three C&D
22 processors in your area --

23 MR. BANTILLO: Correct.

24 COMMITTEE MEMBER JONES: -- that are looking for
25 markets for that material. When do you count the

1 diversion credit, when it's processed and stuck in a pile,
2 or when they sell it and take it out of the gate? Because
3 there's a lot of -- I operated in San Jose. There's a lot
4 of times I see those piles not going anywhere. Roush has
5 pretty big piles right now.

6 MR. BANTILLO: And I would like to see those
7 piles get smaller quickly.

8 COMMITTEE MEMBER JONES: We'd at love to. But if
9 an engineered fill can be reclaimed and a building put on
10 it, there's value there; right?

11 MR. BANTILLO: Correct.

12 COMMITTEE MEMBER JONES: So I guess I'm wondering
13 why -- to promote markets, is what it sounds like your
14 reasoning is, we should call that disposal, even though
15 it's going to be reclaimed. A building can go onto
16 property that otherwise would have been a hole and nothing
17 would have gone on it. I mean, it almost begs the
18 argument that we ought to give diversion credit for it,
19 which I ain't about to go to.

20 But you know, I mean, moving material into the
21 marketplace is important, and this Board has always
22 supported that. But you know, by the same token, like you
23 say, there's 1,000 mine sites. And there are a lot of
24 areas, especially in Irwindale and Southern California
25 where land is at a premium, where they are looking by

1 local ordinance to do that reclamation to fill those
2 properties so that more buildings which generate not only
3 property taxes but house people that can work and do
4 things like that -- so, you know, I would just hope that
5 you look at the whole state and not just San Jose.
6 Because, you know, when Roush's piles go down to nothing,
7 I'm the happiest guy around, as are you, as is Roush. But
8 that's not always the case. You know, those piles get
9 pretty big and stay pretty big.

10 MR. BANTILLO: Well, I agree with you. And
11 again, it is a matter of perspective. What we're
12 advocating is that decisions be made such as that these
13 1,000-plus mine sites aren't indiscriminantly filled in,
14 that these materials are used as a beneficial use for
15 construction purposes, preferably a little bit higher up
16 the chain in road construction and things like that. But
17 if there are some planned uses for these sites and it fits
18 within the general plans of the various jurisdictions,
19 we'd be in support of that as well. We just don't want
20 these materials to get out of the economic mainstream
21 where these recyclers can't compete for it. Roush, as I
22 understand it, tried to establish a facility down in
23 Southern California. But they chose not to because they
24 couldn't compete with these various sites where the
25 materials were being buried.

1 COMMITTEE MEMBER JONES: Got you. Okay. Thanks.

2 MR. BANTILLO: Thank you.

3 CHAIRPERSON PAPARIAN: Thank you.

4 Ken Barker followed by Scott Smithline, and then
5 Chuck White.

6 MR. BARKER: Good afternoon. I'm Ken Barker with
7 Hanson Aggregates.

8 I'd like to also disagree with the use of the
9 word "disposal" to describe what we're doing when we're
10 creating engineered fill. And I also like to disagree
11 with the use of requiring scales at our engineered fills.

12 The argument with disposal is that it doesn't
13 properly describe what we do. We take in primarily
14 asphalt and concrete, size it, spread it in a lift,
15 compact it, test the compaction. And in the end we are
16 creating something that you put a building on. We're
17 creating a fill to build as a building pad. This is far
18 different than just pushing things into a hole.

19 It's similar to building a road. You go out and
20 compact the earth. You spread sand and gravel on it.
21 Then you put asphalt or concrete on top of it. You call
22 this a road, not a disposal operation. So just for the
23 purity of the language, call it something other than
24 disposal because we are building something. We're not
25 disposing.

1 The second thing on the scales issue is we have
2 scales at our facilities, but they're designed to weigh
3 the material going out. To weigh the material going in
4 creates a big traffic problem. And it's inconsistent with
5 the earlier regulations. We also have recycling sites at
6 our mines. So a truck carrying asphalt and concrete going
7 to be recycled wouldn't be required to be weighted. But
8 if it went to the engineered fill, it would be. Not
9 consistent.

10 We also take material that is not as suitable to
11 make concrete aggregate out of, and we put it in our
12 fills. We haul this in off-road trucks which we can't
13 weigh on scales and I don't think are required to be
14 counted as part of your purview as going into the fills.
15 So you're getting some weighted material and some
16 unweighted material in the fill, which doesn't make sense
17 to me from a construction background.

18 So basically we're for Issue 1, Alternative 3,
19 and Issue 2, Alternative 3. Thank you.

20 CHAIRPERSON PAPARIAN: Thank you.

21 Scott Smithline.

22 MR. SMITHLINE: Scott Smithline, Californians
23 Against Waste. Chair and Committee members, thank you for
24 this opportunity to comment on these regulations. I'd
25 like to also participate in staff appreciation day today

1 and say that this has been a pretty complicated package in
2 some ways, and staff has taken a lot of time to hear us
3 out and to explain things to us that weren't readily
4 understandable.

5 With respect to the disposal issue, this wasn't
6 initially our battle. However, it does appear to us that
7 what's going on at these inert debris engineered fill
8 operation falls within the statutory definition of
9 disposal. In the end, our concern has really been with
10 proper characterization of these materials at inert debris
11 engineered fill operations with respect to the disposal
12 reporting system. With the language -- that clarifying
13 language in the resolution, we feel staff has accomplished
14 this, and we support the staff recommendation.

15 Thank you.

16 CHAIRPERSON PAPARIAN: Thank you. Chuck White,
17 followed by Margaret Clark, followed by Mark Aprea.

18 MR. WHITE: Thank you, Mr. Chairman, members of
19 the Committee. Chuck White with Waste Management.

20 We operate a clean inert engineered fill new
21 weigh facility in Irwindale in Southern California. And
22 that really is the sole reason I'm here is how these
23 regulations would affect it and similar types of clean
24 inert fill operations.

25 These are operations that are limited to only

1 specified uncontaminated materials that must be separated
2 from the rest of the waste that may be generated. It's
3 only placement of materials that are suitable for
4 structural support. Clearly the regulation envisions that
5 these properties would be beneficially used. The material
6 must be place in accordance with engineered specification
7 related to the future beneficial use of the property and
8 properly compacted. And the operators got to be
9 certifying that only these kinds of materials and these
10 kinds of activities have taken place.

11 We're concerned about calling these disposal
12 because, for the most part, these kinds of operations have
13 never been considered disposal in California, other than
14 three facilities that got caught up in kind of a
15 convoluted problem in Southern California, of which our
16 facility is one.

17 We have a number of concerns about calling these
18 disposal. And I think the staff has done an excellent job
19 in this regulation package of laying out the options
20 properly that are before you. In fact, these options that
21 are before you mirror very closely the debate that went on
22 in the past three bills in the Legislature. You have
23 Option Number 1 that says this is disposal. You have
24 Option Number 2 that says this is not disposal. And you
25 have Option Number 3 which is the 'tweener, if you will,

1 that says this is neither disposal or diversion. It
2 should be taken off the table and not counted. And that's
3 exactly what the Legislature has done three times in a row
4 when this issue has come up by overwhelming bipartisan
5 support and the bills that they have been passed on this.
6 And we would urge the Board to continue in this vain.

7 Why are we opposed to calling it disposal? Well,
8 other than these three facilities that we believe were
9 mistakenly issued solid waste facility permits in
10 contradiction to the established policy of this Board at
11 the time, no facility in California like this that are
12 clean inert engineered fills have ever been regulated as
13 disposal operations. It puts a stigma on these kinds of
14 clean fill operations. In fact, may impose a burden on
15 subsequent property transfers because it will have to
16 disclose there was a disposal activity that took place on
17 this facility.

18 Calling it disposal is not consistent with the
19 three previous legislative bills that say that activity is
20 not disposal. Calling it disposal but saying it is not
21 disposal for purposes of fee and DRS purposes is confusing
22 and potentially establishes an inconsistent statewide
23 policy. And probably most importantly is there is no need
24 to call it disposal. If you look at the body of these
25 regulations, they focus on the kind of materials that can

1 be accepted, how they have to be handled and processed as
2 they are placed into the fill. But the traditional kinds
3 of land disposal regulatory measures like closure and
4 post-closure and on-going regulations of the fill itself
5 are absent because those kinds of activities are not
6 necessary if this material is truly clean and inert. And
7 you say, "Well, what if the material is contaminated might
8 go into the fill?" Well, then all bets are off. It's no
9 longer a clean inert engineered fill and it would have to
10 be regulated by one of the other higher tiered facilities.

11 So the point being if the facility operates in
12 accordance with these regulations and the focus is put on
13 keeping contaminated inappropriate materials out of the
14 fill, it is properly compacted, you are regulating the
15 handling and processing activity leading up to the fill
16 but not the fill itself. So really we believe -- we
17 support the Board's regulations, the LEAs' regulations of
18 these facilities, the appropriate regulations as a
19 processing and handling activity of these clean inert
20 materials for purposes of engineered fill.

21 And finally, we're concerned about the potential
22 ramifications with respect to fee issues, not necessarily
23 the state fee issues, but potentially local government fee
24 issues that might be inconsistent with the way you handle
25 the fee issue at the satisfactory level. And by calling

1 it disposal you leave the door open for that possibility
2 to occur. And it's been one of the ongoing problems that
3 we faced and other three facilities that are in Irwindale
4 faced with respect to the local fee issue.

5 I'd be happy to go into more detail if anybody
6 has any questions about that. Suffice it to say we've
7 been asked -- we're being suggested by L.A. County that
8 our clean inert engineered fills owes \$17 million and \$3
9 million of which is fees that we have not paid on clean
10 soil and dirt that you folks don't even regulate, and nor
11 do the LEAs and \$14 million in fines and penalties.

12 It's these kinds of issues that we think need to
13 be cleanly taken off the table, just like the Legislature
14 had done three times before. It's not disposal. It's not
15 diversion. It's neither disposal or diversion. We're
16 taking it off the table to cleanly remove this ongoing
17 debate about what to call this material and how it should
18 be regulated. And fee issues should be resolved once and
19 for all. We think the only option that is before this
20 Board that will cleanly resolve this issue once and for
21 all is Option Number 3. And we urge you to adopt Option
22 Number 3 and not call this disposal.

23 With respect to the scale issue, we have a scale
24 at our facility. We intend to keep the scale. We would
25 not operate a facility without a scale because we think it

1 keeps accurate records. We don't have any objection to
2 Option Number 1 on this scale issue. We don't object to
3 Option Number 2 on the scale issue, that is to provide
4 flexibility for rural operations and allow a one-year
5 phase-in period.

6 The reason we have a scale is that we bring
7 materials into the pit. We sort them. If we can take
8 materials back out again for use beneficially for road bed
9 materials or other kinds of things, if the market will
10 support that, we will do that. And we want to keep track
11 of the materials that come in and go out so we keep an
12 accurate ledger of all the materials we're handling at the
13 facility. We think this is a proper way to manage these
14 kinds of materials responsibly and effectively.

15 So we are prepared to comply with Options 1 or 2
16 if you so choose to adopt either one of those with respect
17 to the scale option.

18 That's all I have. Just to reiterate, we hope
19 you don't call this disposal. We hope you stay consistent
20 with what the Legislature has done three times previously
21 on this matter. Thank you.

22 CHAIRPERSON PAPARIAN: Thank you, Mr. White. We
23 have Margaret Clark, then Mark Aprea, and Larry Sweetser.

24 MS. CLARK: I'm Margaret Clark, Mayor Pro Tem in
25 the city of Rosemead. And I'm also chair of the L.A.

1 County Solid Waste Task Force. And I agree with
2 Mr. Mohajer on the issues of the scales. Our Task Force
3 did send you a letter last week or two weeks ago,
4 whatever, August 28th.

5 We are very concerned especially about calling it
6 disposal. And we have a big problem with that because of
7 the fact that your intent right now is that it's not
8 disposal. But we all know how things happen in the
9 Legislature. This week is going to be a real interesting
10 one over there, as you know. Things happen at midnight.
11 And we're just very nervous that that might come back in
12 and someone interprets it differently. And we see these
13 uses as positive.

14 From a city standpoint, we are confronted with
15 the declining -- the increase in population, the need for
16 housing, the need for other buildings. And yet, there's
17 no place to put them. And we see this as a recycling at
18 its best in the sense that you can reuse a piece of land
19 for beneficial use, instead of going out to the green
20 fields and building where it really shouldn't happen from
21 an environmental standpoint. And even if one of these is
22 merely open space -- I serve on the newly-created
23 conservancy -- Los Angeles and San Gabriel Rivers and
24 Mountains Conservancy, and we have studied the ratio of
25 open space to population, and it is scary. There's very

1 little open space left for the people that we serve. And
2 so any time we can reclaim an area for even open space,
3 but more importantly these others where the engineered
4 landfills will be used is excellent, and we support it.

5 So we beg you not to use the term "disposal" when
6 it is, in fact, not disposal. I'll remind Mr. Jones,
7 earlier in the day you mentioned that a word was already
8 in the regulations. It was redundant. But because the
9 people wanted it there, you put it in. And I would just
10 hope that you would use that same reasoning to take out
11 this part because it certainly -- this is your intent. We
12 know it is not to count it as disposal, and we would beg
13 you to remove it from the proposal.

14 Thank you very much.

15 CHAIRPERSON PAPARIAN: Thank you. Mark Aprea.

16 MR. APREA: Chairman Paparian, members of the
17 Committee, Mark Aprea representing Republic Services. I'm
18 here to focus in on one issue and one issue only. And
19 that is the counting or, as we would view it, what should
20 not be counted as disposal, in the event that you have
21 Type A clean inert material going into either a
22 notification tier facility or into a registration tier
23 facility.

24 If I could go back historically to the issue of
25 AB 2308 as well as the predecessor bills dealing with

1 fees, we looked at this issue, frankly, from a standpoint
2 of the following. Number one is you've got clean inert
3 material that is largely outside the jurisdiction of
4 the -- outside of the control of the local jurisdiction.
5 Therefore, this material is being generated either by a
6 school district or by Caltrans or some other governmental
7 entity and sent to facilities over which the local agency
8 has no control.

9 While I will agree and disagree with the
10 gentleman from San Jose on one point, we will disagree in
11 that the AB 2308 was not generated specifically as a
12 result of these three facilities having material going to
13 them being counted as disposal. Rather, it was the fact
14 that you had the Waste Board who then had jurisdiction
15 over a facility then having this material going there, now
16 being counted as disposal because these three facilities
17 had a solid waste facilities permit. There was nothing
18 unique about these facilities other than they had received
19 a permit.

20 We are now looking at the Waste Board putting its
21 arms around not 55 facilities, but I will agree with the
22 gentleman that we're potentially looking at 1,000 or more
23 facilities up and down the state of California that will
24 now be taking Type A clean inert material, and that
25 material will then result in it being counted against the

1 local jurisdiction.

2 Members of this Committee, we've all seen this
3 scenario play out once before. We saw how the Legislature
4 had to address this issue on three separate occasions. We
5 know that the Waste Board and its staff has had to grapple
6 with this issue. And we are asking you to take a look at
7 this material. And if the material is being placed at a
8 registration tier facility where Type A and only Type A
9 material is being received, that it not be counted as
10 disposal. You do have statutory authority to move in that
11 direction.

12 I won't tell you you're compelled to do so by
13 statute, but certainly it is clear that the Legislature
14 has looked at this and asked that you not count this
15 material as disposal if it goes something other than a
16 full solid waste facility -- full solid waste landfill
17 whereby it is being mixed in with all kinds of other
18 material. I'll stipulate to the extent these registration
19 facilities are taking Type B or other materials as well as
20 that certainly that material -- the Type A material should
21 also count as disposal.

22 But we would ask that this Committee and that the
23 Board subsequently look at this issue and make a
24 determination that this material should not count as
25 disposal. For what I fear is that we will find ourselves

1 in the same situation as we found ourselves prior to
2 AB 2308 requiring a lot of machinations here at the Board,
3 and ultimately the matter will have to be resolved again
4 at the Legislature. And so we would ask that you take the
5 time to make this simple change.

6 Thank you.

7 CHAIRPERSON PAPARIAN: Thank you, Mr. Aprea. I
8 think we have a question for you.

9 COMMITTEE MEMBER PEACE: Did I understand you
10 right? Did you say that all inert clean material should
11 not be counted as disposal even if it goes to a Type A
12 disposal facility?

13 MR. APREA: No.

14 COMMITTEE MEMBER PEACE: If you had a truckload
15 of clean inert material and you took it to a --

16 MR. APREA: Registration tier facilities only
17 receiving Type A material, we could ask it not be counted.
18 If Type B or other materials are also accepted at the
19 facility that would otherwise fall within the registration
20 tier, certainly that material should be taken. But where
21 Type A material is being placed at a facility and is only
22 Type A material going to that facility, then we would ask
23 it not be counted.

24 Now, clearly to the extent it goes to a
25 registration tier facility that's taking a broader waste

1 stream or it goes to a solid waste landfill that takes in
2 mixed waste, clearly that material should be counted as
3 disposal.

4 We'd also like to take this opportunity to
5 comment that staff has tried to accommodate this through
6 the language that it's going to put together in the
7 package that it's going submit to OAL. And certainly this
8 Board does now as it has prior to AB 2308 the ability to
9 have the municipality come before the Board and say, "This
10 material was not within our control. It should not be
11 counted as disposal against our disposal reporting
12 system."

13 But we would want you to recognize that the three
14 facilities in the San Gabriel Valley that were the subject
15 or -- I shouldn't say the subject of -- but were the, if
16 you would, the symptom of what led to ultimately to AB
17 2308, these were large relatively sophisticated facilities
18 and the operators were capable of being cooperative with
19 the local jurisdiction. If we're looking at 55, 500 or
20 1,000 facilities around the state, I'm not sure we're
21 going to find the same level of cooperation in getting the
22 tags to count the material out to satisfy the staff's
23 requirement of how we're going to pull this material out
24 from disposal.

25 COMMITTEE MEMBER PEACE: The three facilities

1 you're concerned with in L.A. County, do you think they'll
2 all fall under the notification tier?

3 MR. APREA: In Los Angeles County, those three
4 facilities, I'm told they will fall within the
5 notification tier. I can't speculate as to where all the
6 others will. In fact, staff has done a very good job of
7 -- provided us a list of these facilities. And in talking
8 with folks throughout the solid waste community, our view
9 is that the 50 or so facilities that you have identified
10 are probably only a fraction of the facilities out there
11 that will ultimately come under this new regulations
12 package.

13 And so we don't know the number of facilities
14 with any confidence, we or staff. We don't know the
15 amount of tonnage we're looking at. And our concern is
16 that municipalities, local agencies will find themselves,
17 in essence, with a surprising and large amount of waste
18 being counted against their disposal reporting numbers.

19 COMMITTEE MEMBER PEACE: So if it's a truckload
20 of clean inert material, you either go to an engineered
21 fill or it can go to Type A. You're saying it shouldn't
22 be disposal no matter where it goes because it's clean?

23 MR. APREA: As long as those facilities are only
24 receiving Type A material. We would assert that is, one,
25 consistent with 2308. And two, we're not arguing you

1 should have regulatory oversight. We're just -- we're
2 asking that that material not be counted as disposal.
3 We're not arguing that the tiers ought to be reconfigured
4 or not. We're not arguing that there ought not to be
5 regulatory oversight, even if it's a monofill of Type A
6 material at a registration facility.

7 DEPUTY DIRECTOR LEVENSON: Mr. Paparian, would
8 you mind if I asked Mr. Aprea a question?

9 CHAIRPERSON PAPARIAN: Go ahead.

10 DEPUTY DIRECTOR LEVENSON: Mr. Aprea, most of the
11 other commentators have focused on the use of the term
12 "disposal" in relation to the modification tier, and
13 you've raised the issue of materials that might come to a
14 Type A inert facility that's in the registration tier.
15 And I want to just ask whether you are suggesting that the
16 proposed revision the second "whereas" which specifically
17 speaks to this issue and would allow jurisdictions to
18 petition the Board using existing Board policies to back
19 those tonnages out of their disposal figures is adequate
20 or inadequate for --

21 MR. APREA: I believe it's inadequate because, as
22 you indicated, that policy was available before AB 2308
23 was enacted. And if I would stipulate, just let me
24 theoretically, that it was adequate, it's adequate now.
25 That it was adequate then. And why do we have 2308?

1 Because it is not a simple process to go in and back these
2 numbers out. I mean, the examples we have is where it
3 takes a municipality two weeks of one whole person merely
4 going through tags to pull it out just to provide the data
5 for staff. And I think that issue was frankly resolved.
6 That while, yes, in theory there is that availability to a
7 local jurisdiction, it is not one that is easy and that it
8 would frankly in everyone's best interest to avoid having
9 to go through that process both from the operator, the
10 locality, as well as from the Board staff position.

11 CHAIRPERSON PAPARIAN: Anything else, Mr.
12 Levenson?

13 DEPUTY DIRECTOR LEVENSON: No, not at this time.

14 ACTING CHIEF COUNSEL BLEDSOE: Mr. Chairman.

15 CHAIRPERSON PAPARIAN: Yes, Mr. Bledsoe.

16 ACTING CHIEF COUNSEL BLEDSOE: On that specific
17 point, Mr. Aprea, regardless of the merits of his
18 proposal, there is not language before the Committee that
19 would provide for eliminating a permit requirement and,
20 you know, a conclusion that disposal at a Type A disposal
21 facility is disposal. That's not language that was
22 circulated. If the Committee wanted to consider that
23 language, we would need to go out for an additional 15-day
24 review.

25 DEPUTY DIRECTOR LEVENSON: I'd also point out I

1 think -- and I probably have to go back to the record --
2 this policy regarding the ability of jurisdictions to
3 petition the Board was not in place until after passage of
4 2308. It was a Board policy adopted in --

5 COMMITTEE MEMBER JONES: It was before --

6 DEPUTY DIRECTOR LEVENSON: -- 2002.

7 COMMITTEE MEMBER JONES: It was before, and we
8 thought it was all we needed.

9 CHAIRPERSON PAPARIAN: Thank you, Mr. Aprea.

10 The last speaker is Larry Sweetser. And believe
11 it or not, I think there's three or four people in the
12 audience who haven't spoken, and are choosing not the
13 speak. Mr. Sweetser, go ahead.

14 MR. SWEETSER: Larry Sweetser on behalf of the
15 Rural Counties Environmental Services JPA. I will be
16 quick. Also speaking on one issue, which is no surprise,
17 the issue on scales.

18 First, I want to thank Allison, even though she's
19 not here. But extend our thanks to her for all her
20 efforts. She was even brave enough to come to one of our
21 JPA meetings and address pretty tough questions from some
22 of our members a few weeks ago.

23 Without any surprise -- I won't repeat any of the
24 arguments for the need to not have scales in rural areas.
25 But we would promote on Issues 2, 3, and 4 the Alternative

1 2, exempt rural areas from the use of sales. Even though
2 two of our counties won't qualify under that because
3 they're not considered rural by Board definition, I think
4 that will help many of the counties in the issue.

5 Lastly, we look forward to the upcoming workshops
6 that are coming in a few months. We would hope or request
7 that they also be able to at those workshops be able to
8 address some of the other issues that may have come up on
9 Phase 1 of the C&D regulations. At least maybe we would
10 list some of these issues for future consideration of the
11 Board.

12 With that, thank you very much.

13 CHAIRPERSON PAPARIAN: Thank you.

14 Members, what I'd like to suggest at this
15 point -- this is going to need to go to the full Board for
16 their vote. I'd like to go through the issues. If we
17 have consensus on those issues, I'd like to be able to
18 indicate that to the Board. If we don't have consensus,
19 I'd like to be able to indicate that too, and that may
20 help the full Board focus on what it needs to vote on in
21 terms of what goes in or not in the regulations.

22 I'll start kind of backwards, hopefully with a
23 couple of the easier things. Staff has provided us a
24 revised resolution with the longest "whereas" in history
25 as part of it. Member Peace has suggested taking out the

1 phrase "consistent with the provisions of AB 2308" and in
2 the parentheses in the first added "whereas" at the bottom
3 of the first page.

4 First of all, is there any problem with making
5 that alteration that Ms. Peace requested?

6 COMMITTEE MEMBER JONES: I guess my question
7 would be -- I mean, this is in response to that
8 legislation, I mean, we got an awful lot of letters from
9 the legislature that we were not following what their
10 mandate was -- or what their law was. So I mean, it's not
11 inconsistent with every other resolution that is in
12 response to a piece of legislation that I know of. It
13 seems like we were refer to that legislation all the time.

14 CHAIRPERSON PAPARIAN: I think part of her point
15 was it's in -- the fifth "whereas" does provide that
16 reference. It does provide "whereas, the AB 2308 requires
17 the Board adopt the following regulations." I think the
18 concern was with the language consistent with the
19 provision of 2308. I don't want to put words in your
20 mouth, Ms. Peace. I think there was concern about unless
21 we have that language right in front of us and compare it
22 to the adopted regulations into this little section, we
23 may not be fully aware of what we're doing there.

24 COMMITTEE MEMBER JONES: Maybe we can take the
25 time to look at that legislation then and see, because all

1 I think it said was we're not going to count it as
2 diversion or disposal. So --

3 CHAIRPERSON PAPARIAN: Until regulations are
4 adopted.

5 COMMITTEE MEMBER JONES: Right.

6 COMMITTEE MEMBER PEACE: I was going to ask
7 staff what -- if they don't think it's a problem, then
8 leave it.

9 DEPUTY DIRECTOR LEVENSON: We feel it's fine as
10 written.

11 CHAIRPERSON PAPARIAN: Ms. Peace would like it
12 taken out. Mr. Jones --

13 DEPUTY DIRECTOR LEVENSON: It doesn't affect how
14 the inert fill operations are going to be regulated. It
15 doesn't affect the rest of that "whereas" so --

16 COMMITTEE MEMBER PEACE: It's already in there
17 again, so that's fine. Just leave it.

18 CHAIRPERSON PAPARIAN: I'm sorry. Are you
19 saying --

20 COMMITTEE MEMBER PEACE: Staff recommends it be
21 there. I'm fine with that.

22 MR. DE BIE: Just to add what Howard said, these
23 two "whereases" in the resolution as proposed were put
24 together in cooperation with stakeholders. So, you know,
25 elements are included based on what we heard stakeholders

1 indicate was important to them, and we were trying to be
2 responsive to that.

3 So my speculation is if we take it out, we may
4 have one or two stakeholders that may question why that
5 was done and may offer some opinion on that. But that's
6 just my speculation.

7 COMMITTEE MEMBER PEACE: That's fine.

8 CHAIRPERSON PAPARIAN: So you're now okay with
9 everything leaving it in? Mr. Jones is okay. I'll be
10 okay. So this resolution would be the resolution that
11 goes to the Board with the blessing of this Committee.

12 Now to the bigger issues. The scale issue, staff
13 had a recommendation on scales providing that delayed
14 implementation exclusion for rural counties, cities, and
15 site nearing enclosure. Is that still your recommendation
16 based on everything you've heard today?

17 MR. DE BIE: Yes. I believe so. If I could,
18 Howard, just be very clear. Again, it's basically for the
19 two reasons outlined. And maybe just note that one of the
20 reasons outlined was not public health and safety and the
21 environment. And I don't want the Committee to think
22 that, you know, we're including it because there is some
23 issue relative the public health, safety, and the
24 environment, which again, is where Permitting and
25 Enforcement starts with these regs. But it's only for

1 those two reasons that we outlined to be consistent with
2 what we hear the Committee discuss and debate and
3 ultimately include in Phase I as well as discussion way
4 back when about trying to, you know, get good numbers on
5 this type of material.

6 DEPUTY DIRECTOR LEVENSON: I was going to
7 reference the same issue about health and safety and just
8 also add by including in three alternatives, it gives you
9 the option today or at the Board meeting of picking any of
10 the three options. If we had not included this issue in
11 the noticed regulations, you would not be able to address
12 it further. So this just particularly gives you the
13 option of speaking as a Board on that particular
14 requirement.

15 COMMITTEE MEMBER PEACE: I have a general
16 question. It says operations that will cease activities
17 within three years will not need to have a scale. Can you
18 tell me how long the average engineered fill operation
19 lasts?

20 MR. DE BIE: We when we built --

21 COMMITTEE MEMBER PEACE: Is it something that's
22 usually done within a couple years? Or is it something
23 that goes on years and years and years and years?

24 MR. DE BIE: We were mostly concerned when
25 developing these regs relative to the long-term operations

1 that we observed when we went out to the field to
2 investigate these sites. In fact, we built an exception
3 in the regs for any inert debris fill operation that's
4 less than a year because we thought that the local
5 oversight of those short-term operations was more than
6 adequate to address the concerns that staff had about the
7 longer-term ones where things start drifting over time and
8 a need for increased oversight to make sure that what they
9 said they're doing they continue to do. Because we saw in
10 some jurisdictions initially there's some good oversight,
11 but in year five, six, seven, eight, nine, ten down the
12 road, they start drifting, and different materials start
13 going into these sites.

14 So typically what we've observed, and we would
15 expect it to continue, is they start with a very large
16 hole. And because there is some competition for these
17 materials, it does take some time to fill them. So the
18 short answer is yes, they're very long-term projects is
19 what we envision.

20 COMMITTEE MEMBER PEACE: So not really many will
21 fit in that category then? You're saying most of them
22 will probably be required to get scales because they're
23 not going to be able to finish in three years?

24 MR. DE BIE: Most of them, it's our anticipation,
25 after the year -- if you go with Alternative 2 -- after

1 the year from the effective date of the regs would need to
2 have weight records that utilize scales. Again, they
3 don't have to necessarily have them on site. They could
4 access scales some other way or indicate that scales were
5 utilized at some point prior to the material being
6 received at the site and disposed at the site or placed at
7 the sited. So yes ultimately most of them would.

8 Again, one of the reasons we included that
9 exception for the short-term closer is based on
10 stakeholder testimony there was at least one, maybe more,
11 that were very close to filling that hole, and they felt
12 it was very onerous to require scales at that late date.

13 COMMITTEE MEMBER PEACE: When you require scales
14 in the engineered fill category, we don't collect a fee.
15 It's not counted as diversion or disposal. So we're
16 saying we need it for, I guess, some good numbers.

17 I would like to actually hear from Pat Schiavo
18 what he thinks about that, about that scale. I'm sorry to
19 put you on the spot like that. In terms of these
20 engineered fill operations, there's no diversion, there's
21 no disposal, there's no fee collected, how does that
22 figure into needing good numbers for what? Reporting?

23 DEPUTY DIRECTOR SCHIAVO: I'm Pat Schiavo,
24 Diversion, Planning, and Local Assistance Division.

25 What we currently do with the three facilities --

1 the only reason we know any information about those and
2 the reason we're able to deal with 2308 is because we did
3 have weighted amounts or weighted volumes that went into
4 the facilities. So based on that, we're able to come up
5 with some better policy decision-making as well as know
6 the implications of the fees for current and future
7 applications. Is that what you're -- it's critical to
8 have the scales because everything we do is weight-based.

9 COMMITTEE MEMBER PEACE: So as far as you're
10 concerned, you would like to see a scale requirement even
11 in the engineered fill operation category, even though we
12 don't collect a fee and it's not counted as diversion, you
13 still think it's important to have?

14 DEPUTY DIRECTOR SCHIAVO: Or future implications.
15 We work closely with P&E on this.

16 COMMITTEE MEMBER PEACE: Thank you.

17 CHAIRPERSON PAPARIAN: Thank you.

18 So we have three alternatives, 1, 2 and 3. Staff
19 is recommending Alternative 2, which has the scale with
20 some variations. Alternative 1 was the scale in all
21 cases. And Alternative 3 was to delete the scale
22 requirements.

23 Members, Alternative 2 sound okay?

24 COMMITTEE MEMBER PEACE: Alternative 2 sounds
25 okay.

1 CHAIRPERSON PAPARIAN: Mr. Jones.

2 COMMITTEE MEMBER JONES: For the inert sites,
3 both registration and engineered fills, I don't think we
4 should have a requirement for a scale. Because you asked
5 the right question, Ms. Peace. We don't count it. It
6 doesn't do anything. It just adds cost. It's there
7 because they want to have consistency with the Phase 1.

8 And the person that was representing vulcan was
9 absolutely accurate. All of the transfer station regs
10 were based on weight. The contention was weight. And you
11 needed the scales to determine what tier they
12 appropriately belonged in. This has no weight restriction
13 on an engineered fill site. It's no different than going
14 down the street to the guy that's got a sign that says
15 "clean fill wanted." There is no difference.

16 So this is another case -- or it could be used as
17 another example of a government regulation that just
18 arbitrarily asked for something to drive the cost of
19 business up, because there's no benefit. None, that I can
20 see.

21 So I would say in engineered fills and in
22 Registration A we should do Option 3. In C&D sites, the
23 other two facilities, I would go along with Option 2 where
24 it becomes -- because I think there is some reliability on
25 numbers that would make sense. And I'd go along with

1 that, Option 2 on those other types of sites. But Option
2 2 on the engineered fill, the testimony we've gotten and
3 the reason, so that we be consistent with transfer station
4 regs that are based on tonnages, doesn't make any sense to
5 me. I mean, so I would say 3.

6 COMMITTEE MEMBER PEACE: That's why I wanted to
7 ask Mr. Schiavo that question. But he said in terms of
8 what the staff does that he still thought it was important
9 to have scales at that level.

10 CHAIRPERSON PAPARIAN: Sounds like Mr. Jones
11 prefers Option 3 on engineered fills. Ms. Peace prefers
12 Option 2, Alternative 2. And I prefer Alternative 2. I
13 don't call that a vote. But we'll indicate to the full
14 Board it's an issue that needs further discussion and
15 decision by the full Board as to which will go into the
16 final regs.

17 COMMITTEE MEMBER JONES: Mr. Paparian, I agree
18 with you, both of you, on the other sites, on C&D and the
19 Type B inerts. I don't have any problem with that with
20 Number 2. But just the idea to require something when
21 there's absolutely no benefit from it.

22 CHAIRPERSON PAPARIAN: I actually --

23 COMMITTEE MEMBER JONES: -- that bothers me.

24 CHAIRPERSON PAPARIAN: I actually see the
25 benefit, but I also see the benefit of ending the

1 Committee soon. So I'll save my argument for next week.

2 DEPUTY DIRECTOR LEVENSON: Just to clarify, on
3 Issue 3 is applicability to the registration tier, you are
4 forwarding the recommendation of Alternative 2. The same
5 thing on Issue 4 which is the applicability to C&D
6 disposal, forwarding a recommendation of Option 2. But on
7 Issue 2 which is the applicability to the notification
8 tier, you do not have a consensus recommendation.

9 CHAIRPERSON PAPARIAN: Are you all comfortable
10 with that?

11 COMMITTEE MEMBER JONES: Okay.

12 CHAIRPERSON PAPARIAN: Now we get to the term
13 "disposal." Members, how do you feel about that?

14 COMMITTEE MEMBER PEACE: Well, the way I feel
15 about it is on page 12, Item E it says, "Disposal means
16 the final deposition of C&D waste or inert debris onto
17 land." And that's all disposal means. It means a final
18 resting place for material. It shouldn't have any
19 negative connotation that goes along with it. We've
20 described it as a final resting place of material.

21 And I was kind of -- you know, I've been going
22 back and forth and back and forth and back and forth on
23 this. But actually Mr. Aprea's argument just really
24 raised a red flag for me when he said, "Oh, now clean
25 material that's going to another site" when we shouldn't

1 be calling that disposal either, that really raises
2 questions for me of unintended consequences of changing
3 the word "disposal." So I think -- I've talked to all our
4 staff. I've talked to legal. They all feel that we need
5 to keep the word "disposal," and I'm going to have to take
6 their recommendation on that.

7 CHAIRPERSON PAPARIAN: Mr. Jones.

8 COMMITTEE MEMBER JONES: Where on page 12, Ms.
9 Peace? What line?

10 CHAIRPERSON PAPARIAN: I think she's on page 2 of
11 the regs, page 12 of agenda item.

12 COMMITTEE MEMBER PEACE: Item E, the very last
13 line.

14 COMMITTEE MEMBER JONES: But that's language that
15 we're proposing. So --

16 COMMITTEE MEMBER PEACE: But that's what disposal
17 does mean.

18 COMMITTEE MEMBER JONES: No. It only means that
19 if we say it means it, because we're proposing that
20 language in these regs. So to base it on proposed
21 language, that's fine. I got no problem with that. But I
22 object. I'm not going to go there because we're creating
23 these words. We're creating these terms. So the word
24 "disposal" means whatever we say it means. The
25 placement --

1 COMMITTEE MEMBER PEACE: In the dictionary it
2 says final deposition of something.

3 COMMITTEE MEMBER JONES: What I'm telling you is
4 that something our staff has created and asked us to
5 approve. I don't approve of that, because there are
6 different situations. It's an engineered fill is -- he's
7 gone now. The guy that talked about a road, that's an
8 engineered fill. The ground this place this is built on
9 is an engineered. The place across the street that's been
10 banging on the ground putting in piles will be an
11 engineered fill when they start bringing dirt back in to
12 cover up those fills. Those are engineered fills. It is
13 not a disposal site. And never has been a disposal site.

14 To rely -- I mean, I know you got a lot of people
15 giving you advice. But everything that's underlined in
16 these regs is proposed by our staff. So I don't buy any
17 of it until we vote on it. But on Issue 1, I'm with
18 Alternative 3.

19 CHAIRPERSON PAPARIAN: So Mr. Jones prefers
20 Alternative 3 on this one. Ms. Peace prefers Alternative
21 1, which I believe was the staff recommendation.

22 And at this point I won't blame Mr. Aprea for my
23 thinking on this. But I'll go with the staff
24 recommendation on this. And we'll go to the full Board
25 and have some more discussion I'm sure over the next week

1 and at the full Board meeting.

2 So the way this will go at the full Board meeting
3 is that we are -- the Committee's, I think, hopeful we get
4 these regulations in place. We don't have unanimity on a
5 couple of issues. We'll describe what those are and then
6 let the whole Board discuss and focus on those issues and
7 hopefully adopt the regs. Does that seem an okay way to
8 proceed? Okay. That covers this item.

9 Is there any public comment? Hearing none, this
10 meeting is adjourned.

11 (Thereupon the California Integrated Waste
12 Management Board, Permitting and Enforcement
13 Committee adjourned at 5:01 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, TIFFANY C. KRAFT, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing hearing was reported in shorthand by me,
7 Tiffany C. Kraft, a Certified Shorthand Reporter of the
8 State of California, and thereafter transcribed into
9 typewriting.

10 I further certify that I am not of counsel or
11 attorney for any of the parties to said hearing nor in any
12 way interested in the outcome of said hearing.

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 21st day of September, 2003.

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